

WATER RIGHT APPROPRIATION

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the appropriation of water.

Highlighted Provisions:

This bill:

▸ requires the state engineer to approve an extension of time for a water right application if the water is being held for the reasonable future requirements of the public; and

▸ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-12, as last amended by Laws of Utah 2007, Chapter 136

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-3-12** is amended to read:

73-3-12. Time limit on construction and application to beneficial use --



28 **Extensions -- Procedures and criteria.**

29 (1) As used in this section, "public agency" means:

30 (a) a public water supply agency of the state or a political subdivision of the state; or

31 (b) the Bureau of Reclamation.

32 (2) (a) ~~[The construction of]~~ An applicant shall construct the works and [the
33 application of] apply the water to beneficial use [shall be diligently prosecuted to completion]
34 within the time fixed by the state engineer.35 (b) ~~[Extensions]~~ Except as provided by Subsection (2)(c), the state engineer may grant
36 an extension of time, not exceeding 50 years from the ~~[date of approval of the application,~~
37 ~~except as provided in Subsection (2)(c), may be granted by the state engineer on proper~~
38 ~~showing of]~~ application's approval date, if the applicant shows diligence or a reasonable cause
39 for delay.40 (c) ~~[Additional extensions]~~ The state engineer shall grant an extension of time, beyond
41 50 years, ~~[may be granted by the state engineer on applications]~~ on an application held by ~~[any]~~
42 a public agency, if the public agency ~~[can demonstrate]~~ shows that the water will be needed to
43 meet the reasonable future requirements of the public.44 (d) ~~[All requests for]~~ An applicant shall file a request for an extension of time [shall be
45 filed in] with the office of the state engineer on or before the date fixed for filing proof of
46 appropriation.47 (e) ~~[Extensions]~~ The state engineer may grant an extension of time:48 (i) not exceeding 14 years after the approval date ~~[of approval may be granted by the~~
49 ~~state engineer]~~ upon a sufficient showing~~[, but extensions]; and~~50 (ii) beyond 14 years ~~[shall be granted only]~~ after application and publication of notice.51 (f) (i) The state engineer shall publish a notice of the application once a week for two
52 successive weeks, in a newspaper of general circulation, in the county in which the ~~[source of~~
53 ~~the]~~ water supply source is located and where the water is to be used.

54 (ii) The notice shall:

55 (A) state that an application has been made; and

56 (B) specify where the interested party may obtain additional information relating to the
57 application.58 (g) ~~[Any]~~ A person who owns a water right or holds an application from the source of

59 supply referred to in Subsection (2)(f) [~~or holds an application from that source of supply~~] may
60 file a protest with the state engineer:

61 (i) within 20 days after the notice is published, if the adjudicative proceeding is
62 informal; and

63 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
64 formal.

65 (h) In considering an application to extend the time in which to place water to
66 beneficial use under an approved application, the state engineer shall deny the extension of
67 time and declare the application lapsed, unless the applicant affirmatively shows that the
68 applicant has exercised or is exercising reasonable and due diligence in working toward
69 completion of the appropriation.

70 (i) (i) [~~H~~] The state engineer shall approve the extension of time if the applicant shows
71 reasonable and due diligence [~~is shown by the applicant, the state engineer shall approve the~~
72 extension].

73 (ii) The approved extension of time is effective so long as the applicant continues to
74 exercise reasonable diligence in completing the appropriation.

75 (j) (i) The state engineer shall consider the holding of an approved application by [~~any~~]
76 a public agency to meet the reasonable future requirements of the public to be reasonable and
77 due diligence within the meaning of this section for the first 50 years.

78 (ii) The state engineer [~~may~~] shall approve [~~extensions~~] an extension of time beyond 50
79 years for a public agency, if the public agency provides information [~~sufficient to demonstrate~~]
80 that shows the water will be needed to meet the reasonable future requirements of the public.

81 (k) If the state engineer finds unjustified delay or lack of diligence in prosecuting the
82 works to completion, the state engineer may:

83 (i) deny the extension of time; or [~~may~~]

84 (ii) grant the request in part or upon conditions, including a reduction of the priority of
85 all or part of the application.

86 (3) (a) Except as provided [~~in~~] by Subsections (3)(b) and (c), an application upon
87 which proof has not been submitted shall lapse and have no further force or effect after the
88 expiration of 50 years from the date of its approval.

89 (b) If the works are constructed with which to make beneficial use of the water applied

90 for, the state engineer may, upon showing of that fact, grant additional time beyond the 50-year
91 period in which to make proof.

92 (c) An application held by a public agency to meet the reasonable future requirements
93 of the public, for which proof of appropriation has not been submitted, shall lapse, unless
94 extended as provided in Subsection (2)(j).

Legislative Review Note
as of 1-25-08 6:09 PM

Office of Legislative Research and General Counsel

H.B. 179 - Water Right Appropriation Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
