

**WATER RIGHTS PRIORITIES IN TIMES OF
SHORTAGE**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill addresses the priority of water rights during times of water shortage.

Highlighted Provisions:

This bill:

- ▶ provides that the priority for water use under water rights is determined by the date of the appropriation of water;
- ▶ provides an exception allowing certain uses to be prioritized before an earlier-dated water right in times of a declared temporary water shortage emergency;
- ▶ defines "temporary water shortage emergency;"
- ▶ provides for the payment of compensation to be paid by a water user whose right is given priority during a temporary water shortage emergency to the user whose use is interrupted; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 73-3-21.1, Utah Code Annotated 1953



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

31 Section 1. Section 73-3-21.1 is enacted to read:

32 **73-3-21.1. Priorities between appropriators.**

33 (1) As used in this section, "temporary water shortage emergency" means a shortage of
34 water:

35 (a) whether caused by drought, manmade, or naturally caused;

36 (b) for which the governor has declared an emergency; and

37 (c) that may not exceed in duration more than two consecutive calendar years.

38 (2) (a) Appropriators shall have priority among themselves according to the dates of
39 their respective appropriations, so that each appropriator is entitled to receive the appropriator's
40 whole supply before any subsequent appropriator has any right.

41 (b) Notwithstanding Subsection (2)(a), if there is a temporary water shortage
42 emergency, the use of water for drinking, sanitation, and fire suppression has a preferential
43 right over any other water right for the duration of the temporary water shortage emergency if:

44 (i) the water is used by:

45 (A) an individual water user;

46 (B) a county or municipality; or

47 (C) a public water supplier, as defined in Section 73-1-4; and

48 (ii) the water is used without unnecessary waste.

49 (c) Notwithstanding Subsection (2)(a), if there is a temporary water shortage
50 emergency, the use of water for agricultural purposes, including irrigation and livestock water,
51 has a preferential right over any other right, except as provided in Subsection (2)(b).

52 (3) A person using water preferentially during a temporary water storage emergency
53 shall pay to the appropriator whose water use is interrupted the reasonable value of the water
54 use interrupted, crop losses, and other consequential damages incurred as a result of the
55 interruption.

Legislative Review Note
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Office of Legislative Research and General Counsel