

CHANGE APPLICATION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the requirements for filing a change application for a water right subject to a federal contract, under a federal water project with a local water users association or district.

Highlighted Provisions:

This bill:

▸ requires that a change application for a water right that is subject to a federal repayment contract or a federal operation and maintenance contract, under a federal water project with a local water users association or district, shall be signed by certain persons; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-3, as last amended by Laws of Utah 2008, Chapter 311

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



28 Section 1. Section 73-3-3 is amended to read:

29 **73-3-3. Permanent or temporary changes in point of diversion, place of use, or**
30 **purpose of use.**

31 (1) For purposes of this section:

32 (a) "Permanent change" means a change for an indefinite period of time with an intent
33 to relinquish the original point of diversion, place of use, or purpose of use.

34 (b) "Temporary change" means a change for a fixed period of time not exceeding one
35 year.

36 (2) (a) ~~Any~~ Subject to Subsection (2)(c), a person entitled to the use of water may
37 make permanent or temporary changes in the:

38 (i) point of diversion;

39 (ii) place of use; or

40 (iii) purpose of use for which the water was originally appropriated.

41 (b) Except as provided by Section 73-3-30, a change may not be made if it impairs a
42 vested water right without just compensation.

43 (c) A change application for a water right that is subject to a federal repayment contract
44 or a federal operation and maintenance contract, under a federal water project with a local
45 water users association or district, shall be signed by:

46 (i) the local water users association or district; and

47 (ii) the record owner of the water right.

48 (3) A person entitled to use water shall change a point of diversion, place of use, or
49 purpose of water use, including water involved in a general adjudication or other suit, in the
50 manner provided in this section.

51 (4) (a) A person entitled to use water may not make a change unless the state engineer
52 approves the change application.

53 (b) A person entitled to use water shall submit a change application upon forms
54 furnished by the state engineer and shall set forth:

55 (i) the applicant's name;

56 (ii) the water right description;

57 (iii) the water quantity;

58 (iv) the stream or water source;

- 59 (v) if applicable, the point on the stream or water source where the water is diverted;
- 60 (vi) if applicable, the point to which it is proposed to change the diversion of the water;
- 61 (vii) the place, purpose, and extent of the present use;
- 62 (viii) the place, purpose, and extent of the proposed use; and
- 63 (ix) any other information that the state engineer requires.

64 (5) (a) The state engineer shall follow the same procedures, and the rights and duties of
65 the applicants with respect to applications for permanent changes of point of diversion, place of
66 use, or purpose of use shall be the same, as provided in this title for applications to appropriate
67 water.

68 (b) The state engineer may waive notice for a permanent change application involving
69 only a change in point of diversion of 660 feet or less.

70 (6) (a) The state engineer shall investigate all temporary change applications.

71 (b) If the state engineer finds that the temporary change will not impair a vested water
72 right, the state engineer shall issue an order authorizing the change.

73 (c) If the state engineer finds that the change sought might impair a vested water right,
74 before authorizing the change, the state engineer shall give notice of the application to any
75 person whose right may be affected by the change.

76 (d) Before making an investigation or giving notice, the state engineer may require the
77 applicant to deposit a sum of money sufficient to pay the expenses of the investigation and
78 publication of notice.

79 (7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a
80 permanent or temporary change application for the sole reason that the change would impair a
81 vested water right.

82 (b) If otherwise proper, the state engineer may approve a permanent or temporary
83 change application for part of the water involved or upon the condition that the applicant
84 acquire the conflicting water right.

85 (8) (a) A person holding an approved application for the appropriation of water may
86 change the point of diversion, place of use, or purpose of use.

87 (b) A change of an approved application does not:

88 (i) affect the priority of the original application; or

89 (ii) extend the time period within which the construction of work is to begin or be

90 completed.

91 (9) Any person who changes or who attempts to change a point of diversion, place of
92 use, or purpose of use, either permanently or temporarily, without first applying to the state
93 engineer in the manner provided in this section:

94 (a) obtains no right;

95 (b) is guilty of a crime punishable under Section 73-2-27 if the change or attempted
96 change is made knowingly or intentionally; and

97 (c) is guilty of a separately punishable offense for each day of the unlawful change.

98 (10) (a) This section does not apply to the replacement of an existing well by a new
99 well drilled within a radius of 150 feet from the point of diversion of the existing well.

100 (b) Any replacement well must be drilled in accordance with the requirements of
101 Section 73-3-28.

Legislative Review Note

as of 2-9-12 12:12 PM

Office of Legislative Research and General Counsel