

Senator Margaret Dayton proposes the following substitute bill:

WATER JURISDICTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill modifies provisions relating to water rights used for watering livestock on public land and addresses the ability of a party to obtain a water right in the state under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that a livestock watering right be acquired jointly by a public land agency and a beneficial user;
- ▶ states that a public land agency may not condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement on the transfer of the water right, or a party acquiring a water right on behalf of the public land agency;
- ▶ states that, among other reasons, a livestock watering right may be considered valid if it is held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;
- ▶ provides that if a reduction in livestock grazing results in a partial forfeiture of water, the state engineer shall hold the appropriated water right in trust until the water can be appropriated for livestock watering; and

1st Sub. S.B. 274



26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **73-3-31**, as last amended by Laws of Utah 2013, Chapter 343



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

36 Section 1. Section **73-3-31** is amended to read:

37 **73-3-31. Water right for watering livestock on public land.**

38 (1) As used in this section:

39 (a) "Acquire" means to gain the right to use water through obtaining:

40 (i) an approved application to appropriate water; or

41 (ii) a perfected water right.

42 (b) "Allotment" means a designated area of public land available for livestock grazing.

43 (c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and
44 her calf, one horse, or five sheep and goats for one month.

45 ~~(c)~~ (d) (i) "Beneficial user" means the person that has the right to use the grazing
46 permit.

47 (ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

48 ~~(d)~~ (e) "Grazing permit" means a document authorizing livestock to graze on an
49 allotment.

50 ~~(e)~~ (f) "Livestock" means a domestic animal raised or kept for profit or personal use.

51 ~~(f)~~ (g) "Livestock watering right" means a right for:

52 (i) livestock to consume water:

53 (A) directly from the water source located on public land; or

54 (B) from an impoundment located on public land into which the water is diverted; and

55 (ii) associated uses of water related to the raising and care of livestock on public land.

56 ~~(g)~~ (h) (i) "Public land" means land owned or managed by the United States or the

57 state.

58 (ii) "Public land" does not mean land owned by:

59 (A) the Division of Wildlife Resources;

60 (B) the School and Institutional Trust Lands Administration; or

61 (C) the Division of Parks and Recreation.

62 ~~[(h)]~~ (i) "Public land agency" means the agency that owns or manages the public land.

63 ~~[(2) On or after May 12, 2009, a livestock watering right may only be acquired by a~~
64 ~~public land agency jointly with a beneficial user.]~~

65 (2) A public land agency may not:

66 (a) condition the issuance, renewal, amendment, or extension of any permit, approval,
67 license, allotment, easement, right-of-way, or other land use occupancy agreement regarding
68 livestock on the transfer of any water right directly to the public land agency; ~~Ŝ~~ ~~→~~ ~~[or]~~ ~~←~~ ~~Ŝ~~

69 (b) require any water user to apply for, or acquire a water right in the name of, the
70 public land agency as a condition for the issuance, renewal, amendment, or extension of any
71 permit, approval, license, allotment, easement, right-of-way, or other land use occupancy
72 agreement regarding livestock ~~Ŝ~~ ~~→~~ ~~or~~

72a (c) **acquire a livestock watering right if the public land agency is not a beneficial**
72b **user ~~←~~ ~~Ŝ~~.**

73 (3) The state engineer may not approve a change application under Section 73-3-3 for a
74 livestock watering right without the consent of the beneficial user.

75 (4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock
76 watering right or a portion of a livestock watering right that the beneficial user puts to
77 beneficial use.

78 (5) A livestock watering right is appurtenant to the allotment on which the livestock is
79 watered.

80 (6) (a) (i) A beneficial user or a public land agency may file a request with the state
81 engineer for a livestock water use certificate.

82 (ii) The state engineer shall:

83 (A) provide the livestock water use certificate application form on the Internet; and

84 (B) allow electronic submission of the livestock water use certificate application.

85 (b) The state engineer shall grant a livestock water use certificate to ~~[(+)]~~ a beneficial
86 user if the beneficial user:

87 ~~[(A)]~~ (i) demonstrates that the beneficial user has a right to use a grazing permit for the

88 allotment to which the livestock watering right is appurtenant; and

89 ~~[(B)] (ii) pays the fee set in accordance with Section 73-2-14[; and].~~

90 ~~[(ii) the public land agency if the public land agency.]~~

91 ~~[(A) (i) demonstrates that the public land agency owns a livestock watering right; or]~~

92 ~~[(H) issues a grazing permit for the allotment to which the livestock watering right is~~
93 ~~appurtenant; and]~~

94 ~~[(B) pays the fee set in accordance with Section 73-2-14.]~~

95 (c) A livestock water use certificate is valid as long as the livestock watering right is:

96 (i) held by a beneficial user who has the right to use the grazing permit and graze
97 livestock on the allotment;

98 ~~[(i)] (ii) put to beneficial use within a seven-year time period; or~~

99 ~~[(ii)] (iii) subject to a nonuse application approved under Section 73-1-4.~~

100 (7) A beneficial user may access or improve an allotment as necessary for the
101 beneficial user to beneficially use, develop, and maintain the beneficial user's water right
102 appurtenant to the allotment.

103 (8) If a federal land management agency reduces livestock grazing AUMs on federal
104 grazing allotments, and the reduction results in the partial forfeiture of an appropriated water
105 right, the amount of water in question for nonuse as a livestock water right shall be held in trust
106 by the state engineer until such water may be appropriated for livestock watering, consistent
107 with this act and state law.

108 (9) Nothing in this section affects a livestock watering right or a livestock water use
109 certificate held by a public land agency on May 13, 2014.