



## HB96 Water Forfeiture Amendments

### *Resolving Conflict / Securing a Future*

#### What is Behind this Bill?

The concerns which led to the bill were raised in the Utah Water Task Force this past year. The Task Force discussed the concerns and supported the statutory changes proposed.

#### Background

The water right forfeiture statute (Utah Code Section 73-1-4) contains a carefully balanced set of requirements before a water right is subject to forfeiture and a set of exemptions which apply to avoid forfeiture assertions. This bill provides clarity on some exemption requirements and fixes a drafting error which inappropriately combined two exemptions during a modification made in 2008.

#### Issues

The bill addresses three forfeiture exemptions:

- 1) The bill clarifies that water is exempted from forfeiture through use of water under a lease arrangement but only if there is a **written, terminable** agreement.
- 2) Modifications to the forfeiture statute in 2008 provided that public water suppliers are exempt from forfeiture if they are holding water needed in the next 40 years. In a forfeiture proceeding like a general adjudication or when requesting extensions of time to submit proof beyond 50 years from the time when an application was approved, a public water supplier must produce their 40 year plan. The proposed revision allows the state engineer to establish rules about the standards which are to be used in preparing 40 year plans.
- 3) A 2008 modification to the forfeiture statute combined a groundwater recharge exemption with an exemption for situations where a storage restriction is imposed on a surface water reservoir. This proposal separates the combined exemption into two separate exemptions providing clarity in the statute where confusion has existed.

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