

**Effective 5/12/2020**

**Part 1  
General Provisions**

**73-31-101 Title.**

This chapter is known as the "Water Banking Act."

Enacted by Chapter 342, 2020 General Session

**73-31-102 Definitions.**

As used in this chapter:

- (1) "Applicant" means:
  - (a) a record holder of a perfected water right or a valid diligence claim applying for board approval of a statutory water bank under Part 2, Statutory Water Banks; or
  - (b) a public entity applying for board approval of a contract water bank under Part 3, Contract Water Banks.
- (2) "Application" means an application submitted to the board to approve a water bank.
- (3) "Approved change application" means a change application that the state engineer approves to authorize a water right holder to deposit a water right in a water bank pursuant to this chapter and Section 73-3-3 or 73-3-3.5.
- (4) "Banked water right" means a water right, or a portion of a water right, deposited in a water bank that the state engineer has authorized for use in a water bank through an approved change application.
- (5) "Board" means the Board of Water Resources.
- (6) "Borrower" means a person seeking to use a banked water right within a water bank's service area.
- (7) "Contract water bank" means a water bank created pursuant to Part 3, Contract Water Banks.
- (8) "Delivery request" means a request to use a banked water right made by a borrower in accordance with a water bank's policies approved under the water bank's application.
- (9) "Deposit" means depositing a banked water right for use within the service area of a water bank.
- (10) "Depositor" means a person seeking to deposit a water right in a water bank.
- (11) "Hereafter use" means the conditions of use the state engineer authorizes for a banked water right during the term of an approved change application.
- (12) "Heretofore use" means the authorized conditions of use that were in effect before the state engineer approved a change application authorizing new conditions for the use of a banked water right.
- (13) "Loaned water rights" means a banked water right that is used pursuant to an approved delivery request.
- (14) "Perfected water right" means a water right evidenced by:
  - (a) a decree;
  - (b) a certificate of appropriation; or
  - (c) a proposed determination or court order issued in a general adjudication.
- (15) "Public entity" means the same as that term is defined in Section 73-1-4 except for the United States or an agency of the United States.
- (16) "Reporting year" means November 1 through October 31.

- (17) "Service area" means the geographic area where a water bank is approved to operate and operates.
- (18) "State engineer" means the state engineer appointed under Section 73-2-1.
- (19) "Statutory water bank" means a water bank created pursuant to Part 2, Statutory Water Banks.
- (20) "Water bank" means a contract water bank or a statutory water bank.
- (21) "Water banking website" means a website overseen by the board in accordance with Section 73-31-103.

Enacted by Chapter 342, 2020 General Session

**73-31-103 Notice -- Website.**

- (1) A notice required under this chapter shall be posted in accordance with Subsection 73-3-6(1) and to a water bank's website, unless otherwise specified.
- (2) The board may create and oversee a website for the purpose of making water banking information available to the public.

Enacted by Chapter 342, 2020 General Session

**73-31-104 Objectives of water banks.**

The objectives in creating a water bank are to:

- (1) promote:
  - (a) the optimal use of the public's water;
  - (b) transparency and access to water markets;
  - (c) temporary, flexible, and low cost water transactions between water users; and
  - (d) Utah's agricultural economy by providing access to water resources and income for Utah's agricultural industry; and
- (2) facilitate:
  - (a) robust and sustainable agricultural production while meeting growing municipal and industrial water demands, such as following arrangements;
  - (b) water quality improvement;
  - (c) water rights administration and distribution; and
  - (d) a healthy and resilient natural environment.

Enacted by Chapter 342, 2020 General Session

**73-31-105 Scope.**

Nothing in this chapter prevents a person from entering into an agreement regarding the use of a water right that differs from the requirements of this chapter, except that only a water bank approved under this chapter may avail itself of the statutory provisions that apply to a water bank.

Enacted by Chapter 342, 2020 General Session

**73-31-106 Board assistance.**

The board may direct the Division of Water Resources to assist the board in fulfilling the board's responsibilities under this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-107 Fees.**

- (1) The board may charge fees, set pursuant to Section 63J-1-504, to cover the costs of processing and administering:
  - (a) a statutory water bank application; or
  - (b) a contract water bank application.
- (2) The board shall charge a uniform fee for a statutory water bank application and a uniform fee for a contract water bank application.
- (3) The board may charge a different fee for a statutory water bank application than is charged for a contract water bank application.
- (4) Fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the board to implement this chapter.

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