

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.

Enacted by Chapter 342, 2020 General Session