

**PREREQUISITES FOR UTAH ENTERING AN  
AGREEMENT TO DIVIDE GROUNDWATER  
WITH ANOTHER STATE**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jackie Biskupski**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill establishes the criteria and requirements for an agreement to divide groundwater with another state.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates an advisory committee and specifies its duties;
- ▶ requires the state engineer to conduct a water inventory in the project area;
- ▶ requires the Utah Geological Survey, in conjunction with the Department of Environmental Quality, to assess the agreement's potential impact; and
- ▶ authorizes the executive director of the Department of Natural Resources to sign an agreement dividing groundwater with another state only after:
  - certain studies are complete; and
  - the governor and the Legislature approve the agreement.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **73-29-101**, Utah Code Annotated 1953

31 **73-29-102**, Utah Code Annotated 1953

32 **73-29-103**, Utah Code Annotated 1953

33 **73-29-201**, Utah Code Annotated 1953

34 **73-29-202**, Utah Code Annotated 1953



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

37 Section 1. Section **73-29-101** is enacted to read:

38 **CHAPTER 29. INTERSTATE GROUNDWATER ACT**

39 **Part 1. General Provisions**

40 **73-29-101. Title.**

41 This chapter is known as the "Interstate Groundwater Act."

42 Section 2. Section **73-29-102** is enacted to read:

43 **73-29-102. Definitions.**

44 As used in this chapter:

45 (1) "Agreement" means the agreement between Utah and Nevada to divide the water  
46 resources of an interstate groundwater flow system required by the Lincoln County

47 Conservation, Recreation, and Development Act of 2004, Pub. L. No. 108-424.

48 (2) "Committee" means the advisory committee created in Section 73-29-103.

49 (3) "Department" means the Department of Natural Resources.

50 (4) "Executive director" means the executive director of the Department of Natural  
51 Resources.

52 (5) "Project" means the withdrawal and transbasin diversion of water from the  
53 interstate groundwater flow system.

54 (6) "Utah Geological Survey" is the survey created in Section 63-73-5.

55 Section 3. Section **73-29-103** is enacted to read:

56 **73-29-103. Drafting and Management Committee.**

57 (1) There is created an advisory committee.

58 (2) (a) The committee shall consist of the following members:

- 59           (i) the governor or the governor's designee;  
60           (ii) the executive director of the Department of Natural Resources;  
61           (iii) the state engineer;  
62           (iv) the representative designated by the Board of Water Resources, as authorized by  
63 Section 73-10-3, to represent the state at interstate conferences held to enter into compacts to  
64 divide interstate waters;  
65           (v) an elected official from each of the counties affected by the agreement, appointed  
66 by the county's governing body;  
67           (vi) a member of the House of Representatives who represents citizens affected by the  
68 agreement, appointed by the speaker of the House of Representatives;  
69           (vii) a member of the Senate who represents citizens affected by the agreement,  
70 appointed by the president of the Senate; and  
71           (viii) a holder of a water right that could be affected by the agreement, appointed by the  
72 governor.  
73           (b) The executive director of the Department of Natural Resources shall chair the  
74 committee.  
75           (c) The committee shall meet upon the call of the chair or a majority of the committee  
76 members.  
77           (3) (a) Except as required by Subsection (3)(b), the members appointed under  
78 Subsections (2)(a)(iv) through (viii) shall be appointed for four-year terms.  
79           (b) The governor shall, at the time of the appointment or reappointment, adjust the  
80 length of terms to ensure that the terms of the committee members are staggered so that  
81 approximately half of the committee is appointed every two years.  
82           (c) (i) A vacancy exists whenever a member ceases to be a member of the Legislature  
83 or an elected county official, or when a member resigns from the committee.  
84           (ii) Vacancies shall be filled by the appointing authority, and the replacement shall fill  
85 the unexpired term.  
86           (4) (a) (i) A member who is not a government employee may not receive compensation  
87 or benefits for the member's service, but may receive per diem and expenses incurred in the  
88 performance of the member's official duties at rates established by the Division of Finance  
89 under Sections 63A-3-106 and 63A-3-107.

90 (ii) A member may decline to receive per diem and expenses for the member's service.

91 (b) (i) A state government officer and employee member who does not receive salary,  
92 per diem, or expenses from the agency the member represents for the member's service may  
93 receive per diem and expenses incurred in the performance of the member's official duties at  
94 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

95 (ii) A state government officer and employee member may decline to receive per diem  
96 and expenses for the member's service.

97 (c) (i) A local government member who does not receive salary, per diem, or expenses  
98 from the entity that the member represents for the member's service may receive per diem and  
99 expenses incurred in the performance of the member's official duties at the rates established by  
100 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

101 (ii) A local government member may decline to receive per diem and expenses for the  
102 member's service.

103 (d) A legislative member of the committee may receive a salary and expenses paid in  
104 accordance with Section 36-2-2 and legislative rule.

105 (5) The Department of Natural Resources shall provide staff support to the committee.

106 (6) The committee shall:

107 (a) advise the executive director in the negotiation and drafting of the agreement;

108 (b) review the inventory and assessment required by Section 73-29-201;

109 (c) recommend any additional studies; and

110 (d) oversee the implementation and enforcement of the agreement as long as the  
111 project affects the interstate groundwater flow system.

112 Section 4. Section **73-29-201** is enacted to read:

113 **Part 2. Agreement Requirements**

114 **73-29-201. Inventory and assessment required.**

115 (1) Before the executive director may sign the agreement, as authorized by Section  
116 73-29-202, the department shall complete the inventory and assessment required by this  
117 section.

118 (2) The state engineer, in cooperation with other divisions within the department, shall  
119 conduct a comprehensive inventory of the area affected by the interstate groundwater flow  
120 system including:

- 121 (a) all recorded water rights;
- 122 (b) all vested water rights;
- 123 (c) historical and current water uses;
- 124 (d) baseline surface and groundwater conditions on both private and public property,
- 125 including:
  - 126 (i) springs;
  - 127 (ii) seeps;
  - 128 (iii) water flows, including perennial and intermittent surface streams;
  - 129 (iv) water tables;
  - 130 (v) vegetation; and
  - 131 (vi) wet meadows and wetlands.

132 (3) The state engineer, as authorized by Sections 73-2-15 and 73-2-17, may enter into  
133 agreements to investigate the surface water and groundwater resources as required by this  
134 section.

135 (4) (a) The Utah Geological Survey shall use the information collected under  
136 Subsection (2) to develop a model to predict and assess the impacts the project will have on:

- 137 (i) Utah water rights;
- 138 (ii) the agricultural industry and other business development in the area;
- 139 (iii) air quality;
- 140 (iv) water quality; and
- 141 (v) Utah's ecosystem, including:
  - 142 (A) plant life;
  - 143 (B) wildlife; and
  - 144 (C) sensitive or endangered species.

145 (b) The Department of Environmental Quality shall cooperate with the department in  
146 making the assessment required by this section.

147 Section 5. Section **73-29-202** is enacted to read:

148 **73-29-202. Executive director to sign agreement -- Legislature to ratify.**

149 The executive director may not execute the agreement until:

- 150 (1) the inventory and assessment required by Section 73-29-201 is complete;
- 151 (2) the water resources study required by the Lincoln County Conservation, Recreation,

152 and Development Act of 2004, Pub. L. No. 108-424, is complete; and  
153 (3) the agreement has been approved by the governor and the Legislature in a  
154 concurrent resolution.

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**Legislative Review Note**  
**as of 1-30-07 12:02 PM**

**Office of Legislative Research and General Counsel**