

**Representative Jackie Biskupski** proposes the following substitute bill:

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

4                                   2007 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Jackie Biskupski**

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

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8  
9 **LONG TITLE**

10 **General Description:**

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

13 **Highlighted Provisions:**

14           This bill:

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

24 **Monies Appropriated in this Bill:**

25           None



26 **Other Special Clauses:**

27 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

35 **Uncodified Material Affected:**

36 ENACTS UNCODIFIED MATERIAL



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

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

40 **CHAPTER 29. INTERSTATE GROUNDWATER ACT**

41 **Part 1. General Provisions**

42 **73-29-101. Title.**

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

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

45 **73-29-102. Definitions.**

46 As used in this chapter:

47 (1) "Agreement" means the agreement between Utah and Nevada to divide the water  
48 resources of an interstate groundwater flow system required by the Lincoln County  
49 Conservation, Recreation, and Development Act of 2004, Pub. L. No. 108-424.

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

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

52 (4) "Executive director" means the executive director of the Department of Natural  
53 Resources.

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

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

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

58 **73-29-103. Drafting and Management Committee.**

59 (1) There is created an advisory committee.

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

61 (i) the governor or the governor's designee;

62 (ii) the executive director of the Department of Natural Resources;

63 (iii) the state engineer;

64 (iv) the representative designated by the Board of Water Resources, as authorized by

65 Section 73-10-3, to represent the state at interstate conferences held to enter into compacts to  
66 divide interstate waters;

67 (v) an elected official from each of the counties affected by the agreement, appointed  
68 by the county's governing body;

69 (vi) a member of the House of Representatives who represents citizens affected by the  
70 agreement, appointed by the speaker of the House of Representatives;

71 (vii) a member of the Senate who represents citizens affected by the agreement,  
72 appointed by the president of the Senate; and

73 (viii) a holder of a water right that could be affected by the agreement, appointed by the  
74 governor.

75 (b) The executive director of the Department of Natural Resources shall chair the  
76 committee.

77 (c) The committee shall meet upon the call of the chair or a majority of the committee  
78 members.

79 (3) (a) Except as required by Subsection (3)(b), the members appointed under  
80 Subsections (2)(a)(iv) through (viii) shall be appointed for four-year terms.

81 (b) The governor shall, at the time of the appointment or reappointment, adjust the  
82 length of terms to ensure that the terms of the committee members are staggered so that  
83 approximately half of the committee is appointed every two years.

84 (c) (i) A vacancy exists whenever a member ceases to be a member of the Legislature  
85 or an elected county official, or when a member resigns from the committee.

86 (ii) Vacancies shall be filled by the appointing authority, and the replacement shall fill  
87 the unexpired term.

88 (4) (a) (i) A member who is not a government employee may not receive compensation  
89 or benefits for the member's service, but may receive per diem and expenses incurred in the  
90 performance of the member's official duties at rates established by the Division of Finance  
91 under Sections 63A-3-106 and 63A-3-107.

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

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

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

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

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

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

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

108 (6) The committee shall:

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

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

111 (c) recommend any additional studies; and

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

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

115 **Part 2. Agreement Requirements**

116 **73-29-201. Inventory and assessment required.**

117 (1) Before the executive director may sign the agreement, as authorized by Section  
118 73-29-202, the department shall complete the inventory and assessment required by this

119 section.

120 (2) The state engineer, in cooperation with other divisions within the department, shall:

121 (a) inventory the vested water rights in the area affected by the interstate groundwater  
122 flow system; and

123 (b) obtain current information on surface water and groundwater resources, including:

124 (i) springs;

125 (ii) seeps;

126 (iii) water flows;

127 (iv) water tables; and

128 (v) vegetation.

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

132 (4) (a) The Utah Geological Survey shall use the information collected under  
133 Subsection (2) along with data from any test wells to predict and assess the impacts the project  
134 will have on:

135 (i) Utah water rights;

136 (ii) the agricultural industry and other business development in the area;

137 (iii) air quality;

138 (iv) water quality; and

139 (v) Utah's ecosystem, including:

140 (A) plant life;

141 (B) wildlife; and

142 (C) sensitive or endangered species.

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

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

146 **73-29-202. Executive director to sign agreement -- Legislature to ratify.**

147 The executive director may not execute the agreement until:

148 (1) the inventory and assessment required by Section 73-29-201 is complete;

149 (2) the water resources study required by the Lincoln County Conservation, Recreation,

150 and Development Act of 2004, Pub. L. No. 108-424, is complete; and

151 (3) the agreement has been approved by the governor and the Legislature in a

152 concurrent resolution.

153 Section 6. **Intent language.**

154 It is the intent of the Legislature that if this bill and H.B. 134, School and Institutional

155 Trust Lands Amendments, both pass that the money appropriated to the Geological Survey in

156 Subsection 53C-3-203(4) for test wells and hydrologic studies in the West Desert be used by

157 the Geological Survey to satisfy its responsibilities under Section 73-29-201.

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**Fiscal Note****H.B. 422 1st Sub. (Buff) - Prerequisites for Utah Entering an Agreement to Divide Groundwater with Another State**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will require the following one-time appropriations for two years from the General Fund: for FY 2008 \$217,000 to the Utah Geological Survey and \$60,000 to the Division of Water Rights; for FY 2009 \$150,000 to the Utah Geological Survey and \$60,000 to the Division of Water Rights. If this bill and H.B. 134, School and Institutional Trust Lands Amendments both pass, the fiscal impact on H.B. 422 will be reduced due to intent language included in H.B. 422, allowing the funding from H.B. 134 to be used by the Utah Geological Survey to satisfy the requirements in H.B. 422.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund, One-Time	\$0	\$277,000	\$210,000	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$277,000</b>	<b>\$210,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.