

LIVESTOCK WATERING RIGHTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts a section relating to a livestock watering right.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that only a beneficial user may acquire a livestock watering right on public land;
- ▶ recognizes a forage right that is appurtenant to a livestock watering right;
- ▶ authorizes the state engineer to issue a beneficial use certificate;
- ▶ directs the Department of Agriculture and Food in certain circumstances to:
 - hold a livestock watering right in trust; or
 - sell a livestock watering right at a public auction;
- ▶ prohibits the state engineer from approving a change application in certain circumstances; and
- ▶ directs the proceeds from a sale of a livestock watering right by the Department of Agriculture and Food to be deposited in the Rangeland Improvement Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **4-20-2**, as last amended by Laws of Utah 2006, Chapter 294

31 ENACTS:

32 **73-3-30**, Utah Code Annotated 1953



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

35 Section 1. Section **4-20-2** is amended to read:

36 **4-20-2. Rangeland Improvement Fund -- Administered by department.**

37 (1) (a) There is created a restricted special revenue fund known as the "Rangeland
38 Improvement Fund."

39 (b) The fund shall consist of:

40 (i) all monies received by the state from the United States Secretary of Interior under
41 the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

42 (ii) grants or appropriations from the state or federal government;

43 (iii) grants from private foundations; ~~and~~

44 (iv) proceeds from the sale of a livestock watering right in accordance with Section
45 73-3-30; and

46 ~~[(iv)]~~ (v) interest on fund monies.

47 (2) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.

48 (3) The department shall:

49 (a) administer the fund;

50 (b) obtain from the United States Department of Interior the receipts collected from:

51 (i) fees in each grazing district; and

52 (ii) the receipts collected from the sale or lease of public lands; and

53 (c) distribute fund monies in accordance with Section 4-20-3.

54 Section 2. Section **73-3-30** is enacted to read:

55 **73-3-30. Water right for watering livestock.**

56 (1) As used in this section:

57 (a) "Acquire" means to gain the right to use water through obtaining:

58 (i) an approved application to appropriate water; or

- 59 (ii) a perfected water right.
- 60 (b) "Allotment" means a designated area of public land available for livestock grazing.
- 61 (c) "Beneficial user" means the person that owns the grazing permit.
- 62 (d) "Forage right" means a right for livestock to forage within 50 feet of:
- 63 (i) a water source;
- 64 (ii) the place to which water is diverted; or
- 65 (iii) a right-of-way for the maintenance and enjoyment of a livestock watering right.
- 66 (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.
- 67 (f) "Livestock" means a domestic animal raised or kept for profit or personal use.
- 68 (g) "Livestock watering right" means a right for:
- 69 (i) livestock to consume water:
- 70 (A) directly from the water source located on public land; or
- 71 (B) from an impoundment located on public land into which the water is diverted; and
- 72 (ii) associated uses of water related to the raising and care of livestock on public land.
- 73 (h) (i) "Public land" means land owned or managed by the United States or the state.
- 74 (ii) "Public land" does not mean land owned by:
- 75 (A) the Division of Wildlife Resources; or
- 76 (B) the School and Institutional Trust Lands Administration.
- 77 (2) On or after May 5, 2008, only a beneficial user may acquire a livestock watering
- 78 right.
- 79 (3) The state engineer may not approve a change application for a livestock watering
- 80 right without the consent of the beneficial user.
- 81 (4) (a) Except as provided by Subsection (6), a livestock watering right is appurtenant
- 82 to the allotment on which the livestock is watered.
- 83 (b) A forage right is appurtenant to a livestock watering right.
- 84 (5) (a) A beneficial user who does not own nominal title to a livestock watering right
- 85 acquired before May 5, 2008 may apply to the state engineer for a certificate of beneficial use.
- 86 (b) The state engineer shall grant a certificate of beneficial use if the applicant
- 87 demonstrates that the person owns a grazing permit for the allotment to which the livestock
- 88 watering right is appurtenant.
- 89 (6) (a) Notwithstanding other provisions in this title, if a person ceases to be a

90 beneficial user, the livestock watering right acquired under Subsection (2) or the certificate of
91 beneficial use granted under Subsection (5) transfers to the Department of Agriculture and
92 Food.

93 (b) (i) The Department of Agriculture and Food shall ~~H~~→ :

93a (A) file as a lien holder on a grazing permit with the agency responsible for managing
93b the public land; and

93c (B) ←~~H~~ hold the livestock watering right
94 or certificate of beneficial use in trust until the Department of Agriculture and Food transfers
95 the livestock watering right or certificate of beneficial use to a person who owns a grazing
96 permit for the allotment to which the livestock watering right is appurtenant.

97 (ii) A livestock watering right held by the Department of Agriculture and Food is not
98 subject to forfeiture.

99 (c) If no person obtains a grazing permit for the allotment within one year of the
100 Department of Agriculture and Food receiving title:

101 (i) the Department of Agriculture and Food shall:

102 (A) sever the livestock watering right from the allotment; and

103 (B) sell the water right at public auction to a person who:

104 (I) demonstrates the ability to divert the water and use the water right to water
105 livestock; and

106 (II) submits the highest bid; and

107 (ii) the certificate of beneficial use is void.

108 (d) The Department of Agriculture and Food shall deposit the proceeds of the livestock
109 watering right sale into the Rangeland Improvement Fund created by Section 4-20-2.

Legislative Review Note
as of 2-15-08 5:02 PM

Office of Legislative Research and General Counsel

H.B. 208 - Livestock Watering Rights

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require a one-time appropriation of \$212,000 from the General Fund to the Division of Water Rights.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$212,000	\$0	\$0	\$0	\$0
Total	\$0	\$212,000	\$0	\$0	\$0	\$0

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.