

LIVESTOCK WATERING RIGHTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Dennis E. Stowell

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 livestock water use certificate; and
 - charge a fee;
- ▶ 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

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-20-2**, as last amended by Laws of Utah 2006, Chapter 294

33 **73-2-14**, as last amended by Laws of Utah 2007, Chapter 314

34 ENACTS:

35 **73-3-30**, Utah Code Annotated 1953



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

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

39 **4-20-2. Rangeland Improvement Fund -- Administered by department.**

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

42 (b) The fund shall consist of:

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

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

46 (iii) grants from private foundations; [~~and~~]

47 (iv) proceeds from the sale of a livestock watering right in accordance with Section
48 73-3-30; and

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

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

51 (3) The department shall:

52 (a) administer the fund;

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

54 (i) fees in each grazing district; and

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

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

57 Section 2. Section **73-2-14** is amended to read:

58 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**

59 (1) The state engineer shall charge fees pursuant to Section 63-38-3.2 for the following:

60 (a) applications to appropriate water;

61 (b) applications to temporarily appropriate water;

62 (c) applications for permanent or temporary change;

63 (d) applications for exchange;

64 (e) applications for an extension of time in which to resume use of water;

65 (f) applications to appropriate water, or make a permanent or temporary change, for

66 use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;

67 (g) groundwater recovery permits;

68 (h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;

69 (i) republication of notice to water users after amendment of application where required

70 by this title;

71 (j) applications to segregate;

72 (k) requests for an extension of time in which to submit proof of appropriation not to

73 exceed 14 years after the date of approval of the application;

74 (l) requests for an extension of time in which to submit proof of appropriation 14 years

75 or more after the date of approval of the application;

76 (m) groundwater recharge permits;

77 (n) applications for a well driller's license, annual renewal of a well driller's license, and

78 late annual renewal of a well driller's license;

79 (o) certification of copies;

80 (p) preparing copies of documents; [~~and~~]81 (q) reports of water right conveyance[-]; and82 (r) requests for a livestock water use certificate under Section 73-3-30.

83 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon

84 the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and

85 storage, the fee shall be based upon either the rate of flow or annual volume of water stored,

86 whichever fee is greater.

87 (3) Fees collected under this section:

88 (a) shall be deposited in the General Fund as a dedicated credit to be used by the
89 Division of Water Rights; and

90 (b) may only be used by the Division of Water Rights to:

91 (i) meet the publication of notice requirements under this title; [~~and~~]

92 (ii) process reports of water right conveyance[-]; and

93 (iii) process a request for a livestock water use certificate.

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

95 **73-3-30. Water right for watering livestock.**

96 (1) As used in this section:

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

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

99 (ii) a perfected water right.

100 (b) "Allotment" means a designated area of public land available for livestock grazing.

101 (c) "Beneficial user" means the person that owns the grazing permit.

102 (d) "Forage right" means a right for livestock to forage within 50 feet of:

103 (i) a water source;

104 (ii) the place to which water is diverted; or

105 (iii) a right-of-way for the maintenance and enjoyment of a livestock watering right.

106 (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

107 (f) "Livestock" means a domestic animal raised or kept for profit or personal use.

108 (g) "Livestock watering right" means a right for:

109 (i) livestock to consume water:

110 (A) directly from the water source located on public land; or

111 (B) from an impoundment located on public land into which the water is diverted; and

112 (ii) associated uses of water related to the raising and care of livestock on public land.

113 (h) (i) "Public land" means land owned or managed by the United States or the state.

114 (ii) "Public land" does not mean land owned by:
115 (A) the Division of Wildlife Resources; or
116 (B) the School and Institutional Trust Lands Administration.
117 (2) On or after May 5, 2008, only a beneficial user may acquire a livestock watering
118 right.
119 (3) The state engineer may not approve a change application for a livestock watering
120 right without the consent of the beneficial user.
121 (4) (a) Except as provided by Subsection (6), a livestock watering right is appurtenant
122 to the allotment on which the livestock is watered.
123 (b) A forage right is appurtenant to a livestock watering right.
124 (5) (a) A beneficial user may file a request with the state engineer for a livestock water
125 use certificate.
126 (b) The state engineer shall grant a livestock water use certificate if the beneficial user:
127 (i) demonstrates that the beneficial user owns a grazing permit for the allotment to
128 which the livestock watering right is appurtenant; and
129 (ii) pays the fee set in accordance with Section 73-2-14.
130 (6) (a) Notwithstanding other provisions in this title, if a person ceases to be a beneficial
131 user, the livestock watering right acquired under Subsection (2) or the livestock water use
132 certificate granted under Subsection (5) transfers to the Department of Agriculture and Food.
133 (b) (i) The Department of Agriculture and Food shall:
134 (A) file as a lien holder on a grazing permit with the agency responsible for managing
135 the public land; and
136 (B) hold the livestock watering right or livestock water use certificate in trust until the
137 Department of Agriculture and Food transfers the livestock watering right or livestock water
138 use certificate to a person who owns a grazing permit for the allotment to which the livestock
139 watering right is appurtenant.
140 (ii) A livestock watering right held by the Department of Agriculture and Food is not
141 subject to forfeiture.

142 (c) If no person obtains a grazing permit for the allotment within one year of the
143 Department of Agriculture and Food receiving title;

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

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

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

147 (I) demonstrates the ability to divert the water and use the water right to water

148 livestock; and

149 (II) submits the highest bid; and

150 (ii) the livestock water use certificate is void.

151 (d) The Department of Agriculture and Food shall deposit the proceeds of the livestock

152 watering right sale into the Rangeland Improvement Fund created by Section 4-20-2.