

Representative Michael E. Noel proposes the following substitute bill:

LIVESTOCK WATERING RIGHTS

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Dennis E. Stowell

LONG TITLE

General Description:

This bill amends provisions relating to a livestock watering right.

Highlighted Provisions:

This bill:

- ▶ repeals the authority of the Department of Agriculture and Food relating to a livestock water use certificate;
- ▶ defines terms;
- ▶ authorizes a beneficial user to file a nonuse application for a livestock watering right;
- ▶ repeals the provision relating to a forage right;
- ▶ clarifies who can apply for a livestock water use certificate and water right; and
- ▶ requires the state engineer to provide an online application for a livestock water use certificate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **4-20-2**, as last amended by Laws of Utah 2008, Chapter 399

29 **73-3-31**, as enacted by Laws of Utah 2008, Chapter 399

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

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

33 **4-20-2. Rangeland Improvement Fund -- Administered by department.**

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

36 (b) The fund shall consist of:

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

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

40 (iii) grants from private foundations; and

41 [~~(iv) proceeds from the sale of a livestock watering right in accordance with Section~~
42 ~~73-3-31; and]~~

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

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

45 (3) The department shall:

46 (a) administer the fund;

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

48 (i) fees in each grazing district; and

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

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

51 Section 2. Section **73-3-31** is amended to read:

52 **73-3-31. Water right for watering livestock.**

53 (1) As used in this section:

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

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

56 (ii) a perfected water right.

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

58 (c) (i) "Beneficial user" means the person that ~~[owns]~~ has the right to use the grazing
59 permit.

60 ~~[(d) "Forage right" means a right for livestock to forage within 50 feet of:]~~

61 ~~[(i) a water source;]~~

62 ~~[(ii) the place to which water is diverted; or]~~

63 ~~[(iii) a right-of-way for the maintenance and enjoyment of a livestock watering right.]~~

64 (ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

65 ~~[(e)]~~ (d) "Grazing permit" means a document authorizing livestock to graze on an
66 allotment.

67 ~~[(f)]~~ (e) "Livestock" means a domestic animal raised or kept for profit or personal use.

68 ~~[(g)]~~ (f) "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)]~~ (g) (i) "Public land" means land owned or managed by the United States or the
74 state.

75 (ii) "Public land" does not mean land owned by:

76 (A) the Division of Wildlife Resources; ~~H→~~ [or] ~~←H~~

77 (B) the School and Institutional Trust Lands Administration ~~H→~~ [:] or

77a (C) the Division of Parks and Recreation. ~~←H~~

78 (h) "Public land agency" means the agency that owns or manages the public land.

79 (2) On or after ~~[May 5, 2008, only a beneficial user may acquire]~~ May 12, 2009, a
80 livestock watering right~~[-]~~ may only be acquired by:

81 ~~H→~~ [(a) a beneficial user; or

82 ~~—(b)]~~ ~~←H~~ a public land agency jointly with a beneficial user.

83 (3) The state engineer may not approve a change application under Section 73-3-3 for a
84 livestock watering right without the consent of the beneficial user.

85 (4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock
86 water right or a portion of a livestock water right that the beneficial user puts to beneficial use.

87 ~~[(4) (a) Except as provided by Subsection (6), a]~~

88 (5) A livestock watering right is appurtenant to the allotment on which the livestock is
89 watered.

90 ~~[(b) A forage right is appurtenant to a livestock watering right.]~~

91 ~~[(5)]~~ (6) (a) (i) A beneficial user or a public land agency may file a request with the
92 state engineer for a livestock water use certificate.

93 (ii) The state engineer shall:

94 (A) provide the livestock water use certificate application form on the Internet; and

95 (B) allow electronic submission of the livestock water use certificate application.

96 (b) The state engineer shall grant a livestock water use certificate to:

97 (i) a beneficial user if the beneficial user:

98 ~~[(i)]~~ (A) demonstrates that the beneficial user [owns a grazing permit for] has a right to
99 use a grazing permit for the allotment to which the livestock watering right is appurtenant; and

100 ~~[(ii)]~~ (B) pays the fee set in accordance with Section 73-2-14[-]; and

101 ~~[(6) (a) Notwithstanding other provisions in this title, if a person ceases to be a~~
102 ~~beneficial user, the livestock watering right acquired under Subsection (2) or the livestock~~
103 ~~water use certificate granted under Subsection (5) transfers to the Department of Agriculture~~
104 ~~and Food.]~~

105 ~~[(b) (i) The Department of Agriculture and Food shall:]~~

106 ~~[(A) file as a lien holder on a grazing permit with the agency responsible for managing~~
107 ~~the public land; and]~~

108 ~~[(B) hold the livestock watering right or livestock water use certificate in trust until the~~
109 ~~Department of Agriculture and Food transfers the livestock watering right or livestock water~~
110 ~~use certificate to a person who owns a grazing permit for the allotment to which the livestock~~
111 ~~watering right is appurtenant.]~~

112 ~~[(ii) A livestock watering right held by the Department of Agriculture and Food is not~~
113 ~~subject to forfeiture.]~~

114 ~~[(c) If no person obtains a grazing permit for the allotment within one year of the~~
115 ~~Department of Agriculture and Food receiving title:]~~

116 ~~[(i) the Department of Agriculture and Food shall:]~~

117 ~~[(A) sever the livestock watering right from the allotment; and]~~

118 ~~[(B) sell the water right at public auction to a person who:]~~

119 ~~[(F) demonstrates the ability to divert the water and use the water right to water~~
120 ~~livestock; and]~~
121 ~~[(H) submits the highest bid; and]~~
122 ~~[(ii) the livestock water use certificate is void.]~~
123 ~~[(d) The Department of Agriculture and Food shall deposit the proceeds of the~~
124 ~~livestock watering right sale into the Rangeland Improvement Fund created by Section 4-20-2.]~~
125 (ii) the public land agency if the public land agency:
126 (A) (I) demonstrates that the public land agency owns a livestock watering right; or
127 (II) issues a grazing permit for the allotment to which the livestock watering right is
128 appurtenant; and
129 (B) pays the fee set in accordance with Section 73-2-14.
130 (c) A livestock water use certificate is valid as long as the livestock watering right is:
131 (i) put to beneficial use within a seven-year time period; or
132 (ii) subject to a nonuse application approved under Section 73-1-4.

H.B. 256 1st Sub. (Buff) - Livestock Watering Rights Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will require a one-time General Fund appropriation of \$12,500 in FY 2010 and \$2,700 ongoing to the Division of Water Rights. The bill will increase Dedicated Credits revenue by \$1,500 per year.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$2,700	\$2,700	\$0	\$0	\$0
General Fund, One-Time	\$0	\$12,500	\$0	\$0	\$0	\$0
Dedicated Credits	\$0	\$0	\$0	\$0	\$1,500	\$1,500
Total	\$0	\$15,200	\$2,700	\$0	\$1,500	\$1,500

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.
