

LIVESTOCK WATERING RIGHTS

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

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
- ▶ 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

Utah Code Sections Affected:

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; or

77 (B) the School and Institutional Trust Lands Administration.

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 a livestock watering

80 right.

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

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

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

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

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

89 [~~(5)~~ (6) (a) (i) A beneficial user or a public land agency may file a request with the

90 state engineer for a livestock water use certificate.

91 (ii) The state engineer shall:

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

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

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

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

96 [(i)] (A) demonstrates that the beneficial user [owns a grazing permit for] possesses a
97 grazing permit for the allotment to which the livestock watering right is appurtenant; and

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

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

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

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

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

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

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

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

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

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

117 [(1) demonstrates the ability to divert the water and use the water right to water
118 livestock; and]

119 [(2) submits the highest bid; and]

120 [(ii) the livestock water use certificate is void.]

121 ~~[(d) The Department of Agriculture and Food shall deposit the proceeds of the~~
122 ~~livestock watering right sale into the Rangeland Improvement Fund created by Section 4-20-2.]~~
123 (ii) the public land agency if the public land agency:
124 (A) demonstrates that the public land agency owns a livestock watering right; and
125 (B) pays the fee set in accordance with Section 73-2-14.
126 (c) A livestock water use certificate is valid as long as the livestock watering right is:
127 (i) put to beneficial use within a seven-year time period; or
128 (ii) subject to a nonuse application approved under Section 73-1-4.

Legislative Review Note
as of 12-30-08 10:51 AM

Office of Legislative Research and General Counsel

H.B. 256 - 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 \$800 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	\$800	\$800
Total	\$0	\$15,200	\$2,700	\$0	\$800	\$800

Individual, Business and/or Local Impact

Enactment of this bill will likely provide convenience for applicants who choose to pay online for a livestock water use certificate.
