

**APPLICATIONS FOR A SMALL AMOUNT OF
WATER**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: Dennis E. Stowell

LONG TITLE

General Description:

This bill amends a provision relating to an application for a small amount of water.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an applicant to meet certain local ordinances;
- ▶ requires the state engineer to notify an applicant when proof is due;
- ▶ authorizes an appropriator of a small amount of water to file an affidavit as proof;
- ▶ provides the time in which an application lapses;
- ▶ authorizes a person to file a request to reinstate a lapsed application; and
- ▶ requires the state engineer to issue a certificate for a reinstated application if the

applicant meets certain requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-5.6, as enacted by Laws of Utah 1995, Chapter 121



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

Section 1. Section **73-3-5.6** is amended to read:

73-3-5.6. Applications to appropriate or permanently change a small amount of water.

(1) As used in this section:

(a) "Application" means an application to:

(i) appropriate a small amount of water; or

(ii) permanently change a small amount of water.

(b) "Livestock water right" is as defined in Section 73-3-31.

(c) "Proof" means proof of:

(i) appropriation; or

(ii) permanent change.

(d) "Small amount of water" means the amount of water necessary to meet the requirements of:

(i) one residence;

(ii) 1/4 acre of irrigable land; and

(iii) a livestock watering right for:

(A) ten cattle; or

(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.

~~[(1)]~~ (2) The state engineer may approve an application ~~[to appropriate or permanently change a small amount of water necessary to meet the requirements of one residence, 1/4 acre of irrigable land, and ten cattle or the equivalent amount of water for livestock purposes,]~~ if:

(a) the state engineer undertakes a thorough investigation of the [proposed appropriation or permanent change] application;

(b) notice is provided in accordance with Subsection ~~[(2)]~~ (3); [and]

(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable[-]; and

(d) the application does not conflict with a political subdivision's ordinance:

(i) for planning, zoning, or subdivision regulation; or

59 (ii) under Section 10-8-15.

60 [~~(2)~~] (3) (a) Advertising of an application [~~to appropriate or permanently change a~~
61 ~~small amount of water as~~] specified in Subsection [~~(1) shall be~~] (2) is at the discretion of the
62 state engineer.

63 (b) If the state engineer finds that the uses proposed by the application may impair
64 other rights, before approving the application, the state engineer shall give notice of the
65 application according to Section 73-3-6.

66 [~~(3)~~] (4) An applicant receiving approval under this section [~~shall be~~] is responsible for
67 the time limit [~~of~~] for construction and submitting proof [~~of appropriation or permanent~~
68 ~~change~~] as required [~~under this chapter~~] by Subsection (6).

69 (5) Sixty days before the end of the time limit for construction, the state engineer shall
70 notify the applicant by mail when proof is due.

71 (6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate
72 under Section 73-3-17 if an applicant files an affidavit, on a form provided by the state
73 engineer, as proof.

74 (b) The affidavit shall:

75 (i) specify the amount of:

76 (A) irrigated land; and

77 (B) livestock watered; and

78 (ii) declare the residence is constructed and occupied.

79 (c) The form provided by the state engineer under Subsection (6)(a) may require the
80 information the state engineer determines is necessary to maintain accurate records regarding
81 the point of diversion and place of use.

82 (7) If an applicant does not file the proof required by Subsection (6) by the day on
83 which the time limit for construction ends, the application lapses under Section 73-3-18.

84 (8) (a) An applicant whose application lapses may file a request with the state engineer
85 to reinstate the application, if the applicant demonstrates that the applicant or the applicant's
86 predecessor in interest:

87 (i) constructed and occupied a residence within the time limit for construction; and

88 (ii) beneficially uses the water.

89 (b) If an applicant meets the requirements of Subsection (8)(a) and submits an affidavit

90 as provided by Subsection (6), the state engineer shall issue a certificate:
91 (i) for the amount of water actually in use as described in the affidavit; and
92 (ii) with a priority date of the day on which the applicant files the request for
93 reinstatement of the application.

Legislative Review Note
as of 2-25-09 9:19 AM

Office of Legislative Research and General Counsel

H.B. 389 - Applications for a Small Amount of Water

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments. Individuals may save money when applying for a small water right.
