

**WATER RIGHT GENERAL ADJUDICATION**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrick Painter**

Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This bill addresses matters related to a general adjudication of water rights.

**Highlighted Provisions:**

This bill:

- ▶ eliminates a requirement that an objection to a state engineer's proposed determination of water rights be verified under oath;
- ▶ provides for a petition to expedite a hearing concerning an objection to a proposed determination of water rights;
- ▶ allows a claimant to file a petition seeking to compel the state engineer to issue a proposed determination of water rights in a geographically limited portion of the general adjudication area; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**73-4-11**, as last amended by Laws of Utah 2009, Chapter 365



28 REPEALS AND REENACTS:

29 **73-4-24**, Utah Code Annotated 1953



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

32 Section 1. Section **73-4-11** is amended to read:

33 **73-4-11. Report and recommendation by engineer to court -- Notice -- Public**  
34 **meeting.**

35 (1) Within 30 days after the expiration of the 90 days allowed for filing statements of  
36 claims, the state engineer shall begin to tabulate the facts contained in the statements filed and  
37 to investigate, whenever the state engineer shall consider necessary, the facts set forth in the  
38 statements by reference to the surveys already made or by further surveys, and shall as  
39 expeditiously as possible [~~make a~~] report to the court [~~with the~~] a recommendation of how all  
40 rights involved shall be determined.

41 (2) After full consideration of the statements of claims, and of the surveys, records, and  
42 files, and after a personal examination of the river system or water source involved, if the  
43 examination is considered necessary, the state engineer shall:

44 (a) formulate a report and a proposed determination of all rights to the use of the water  
45 of the river system or water source;

46 (b) mail or deliver a copy of the report and proposed determination to each claimant  
47 with notice that any claimant dissatisfied with the report and proposed determination may  
48 within 90 days from the date of mailing or delivery file with the clerk of the district court a  
49 written objection [~~verified on oath~~]; and

50 (c) hold a public meeting in the area covered by the report and proposed determination  
51 to describe the report and proposed determination to the claimants.

52 (3) The state engineer shall distribute the waters from the natural streams or other  
53 natural sources:

54 (a) in accordance with the proposed determination or modification to the proposed  
55 determination by court order until a final decree is rendered by the court; or

56 (b) if the right to the use of the waters has been decreed or adjudicated, in accordance  
57 with the decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

58 Section 2. Section **73-4-24** is repealed and reenacted to read:

59 **73-4-24. Petition for expedited hearing of objection -- Petition for limited**  
60 **determination.**

61 (1) A claimant to the use of water may petition the court to expedite the hearing of a  
62 valid, timely objection to a report and proposed determination prepared in accordance with  
63 Section 73-4-11 in which the claimant has a direct interest.

64 (2) A petition under Subsection (1) shall identify any party directly affected by the  
65 objection, if known to the claimant, and state why the hearing of the objection should be  
66 expedited.

67 (3) A petitioner under Subsection (1) shall notify those affected by the petition as  
68 directed by the court.

69 (4) The court may grant a petition under Subsection (1) if:

70 (a) the court finds that the expedited hearing is necessary in the interest of justice;

71 (b) granting the petition ~~shall~~ **[provides]** will facilitate ~~the~~ a reasonably prompt resolution  
71a of the matters raised  
72 in the objection; and

73 (c) granting the petition does not prejudice the right of another claimant.

74 (5) During the pendency of a general adjudication suit, a claimant or group of  
75 claimants may petition the court to direct the state engineer to survey and prepare a proposed  
76 determination for a limited area within the general adjudication area in which the claimant or  
77 group of claimants has a claim.

78 (6) The court may grant a petition under Subsection (5) if:

79 (a) the claimant or group of claimants will suffer prejudice if the petition is not  
80 granted;

81 (b) the matters raised by the claimant or group of claimants are proper for  
82 determination in a general adjudication;

83 (c) granting the petition will not unduly burden the state engineer's resources; and

84 (d) granting the petition will not unduly interfere with the state engineer's discretion to  
85 allocate resources for the preparation of another proposed determination.

86 (7) If the court grants a petition under this section, the state engineer shall comply with  
87 this chapter in satisfying the court's order.

**Legislative Review Note**  
as of 1-20-10 3:05 PM

**Office of Legislative Research and General Counsel**

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**H.B. 229 - Water Right General Adjudication Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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