

1 **WATER RIGHTS AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jack R. Draxler**

5 Senate Sponsor: Ralph Okerlund

6

LONG TITLE

7 **Committee Note:**

8 The Natural Resources, Agriculture, and Environment Interim Committee
9 recommended this bill.

10 **General Description:**

11 This bill addresses water rights applications.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ eliminates a provision referring to forfeiture of a water right application;
- 15 ▶ changes a reference concerning exceptions to application-based priority dates for
- 16 water rights; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **73-3-18**, as last amended by Laws of Utah 1959, Chapter 137

25

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



28 Section 1. Section **73-3-18** is amended to read:

29 **73-3-18. Lapse of application -- Notice -- Reinstatement -- Priorities --**
 30 **Assignment of application -- Filing and recording -- Constructive notice -- Effect of**
 31 **failure to record.**

32 (1) When an application lapses for failure of the applicant to comply with ~~[the~~
 33 ~~provisions of this title]~~ this title's provisions or the state engineer's order ~~[of the state engineer],~~
 34 notice of ~~[such lapsing]~~ the lapse shall ~~[forthwith]~~ promptly be given to the applicant by regular
 35 mail.

36 (2) Within 60 days after ~~[such]~~ notice of a lapse described in Subsection (1), the state
 37 engineer may, upon a showing of reasonable cause, reinstate the application with the date of
 38 priority changed to the date of reinstatement.

39 (3) The original priority date of a lapsed ~~[or forfeited]~~ application ~~[shall]~~ may not be
 40 reinstated, except upon a showing of fraud or mistake of the state engineer.

41 (4) The priority of an application shall be determined by the date of receiving the
 42 written application in the state engineer's office, except as provided in Section ~~[73-3-17]~~
 43 73-3-12 and as ~~[herein]~~ provided in this section. ~~[Prior to]~~

44 (5) Before issuance of a certificate of appropriation, rights claimed under applications
 45 for the appropriation of water may be transferred or assigned by instruments in writing. ~~[Such~~
 46 ~~instruments,]~~

47 (6) An instrument transferring or assigning a right described in Subsection (5), when
 48 acknowledged or proved and certified in the manner provided by law for the
 49 ~~[acknowledgement]~~ acknowledgment or proving of conveyances of real estate, may be filed in
 50 the office of the state engineer and shall from time of filing ~~[of same in said office]~~ impart
 51 notice to all persons of the contents thereof.

52 (7) Every assignment of an application ~~[which shall not be]~~ that is not ~~§→~~ [recorded] filed ←§ as
 53 ~~[herein]~~ provided [shall be] by this section is void as against any subsequent assignee in good
 54 faith and for valuable consideration of the same application or any portion thereof where ~~[his]~~
 55 the subsequent assignee's own assignment [shall be] is first duly ~~§→~~ [recorded] filed ←§ .

Legislative Review Note
as of 11-17-10 12:35 PM

Office of Legislative Research and General Counsel