

WATER APPROPRIATION MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions regarding an application to appropriate water.

Highlighted Provisions:

This bill:

▸ describes the process by which the state of Utah, through one of its departments or independent entities, may file an application to appropriate water; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-2, as last amended by Laws of Utah 2001, Chapter 136

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

Section 1. Section **73-3-2** is amended to read:

73-3-2. Application for right to use unappropriated public water -- Necessity -- Form -- Contents -- Validation of prior applications by state or United States or officer or agency thereof.



28 (1) (a) In order to acquire the right to use any unappropriated public water in this state,
29 [~~any person who is a citizen of the United States, or who has filed his declaration of intention~~
30 ~~to become a citizen as required by the naturalization laws, or any association of citizens or~~
31 ~~declarants, or any corporation, or the state of Utah by the directors of the divisions of travel~~
32 ~~development, business and economic development, wildlife resources, and state lands and~~
33 ~~forestry, or the executive director of the Department of Transportation for the use and benefit~~
34 ~~of the public, or the United States of America]~~ an individual or entity described in Subsection
35 (1)(b) shall make an application in a form prescribed by the state engineer before commencing
36 the construction, enlargement, extension, or structural alteration of any ditch, canal, well,
37 tunnel, or other distributing works, or performing similar work tending to acquire such rights or
38 appropriation, or enlargement of an existing right or appropriation.

39 (b) The following individuals and entities may file an application to appropriate water
40 within the state:

41 (i) any individual who:

42 (A) is a citizen of the United States; or

43 (B) has filed a declaration of intention to become a citizen of the United States, as
44 required by federal naturalization laws;

45 (ii) an association of citizens;

46 (iii) a corporation;

47 (iv) the state of Utah through the following departments, divisions, or entities:

48 (A) the Board of Water Resources;

49 (B) the School and Institutional Trust Lands Administration;

50 (C) the Department of Transportation;

51 (D) the Division of Wildlife Resources;

52 (E) the Division of Parks and Recreation;

53 (F) the Division of Forestry, Fire, and State Lands;

54 (G) the state developmental center;

55 (H) the state hospital;

56 (I) the Department of Public Safety; and

57 (J) the Division of Facilities Construction and Management; and

58 (v) the United States.

59 (c) The departments, divisions, and entities described in Subsections (1)(b)(iv)(B)
60 through (J):

61 (i) shall file for an appropriation in the same manner as a private property owner; and

62 (ii) have no special rights by virtue of being a public entity, regardless of whether the
63 entity claims it will be acting as a public water supplier, as defined in Section [73-1-4](#).

64 ~~(b)~~ (d) The application shall be upon a form to be furnished by the state engineer and
65 shall set forth:

66 (i) the name and post office address of the person, corporation, or association making
67 the application;

68 (ii) the nature of the proposed use for which the appropriation is intended;

69 (iii) the quantity of water in acre-feet or the flow of water in second-feet to be
70 appropriated;

71 (iv) the time during which it is to be used each year;

72 (v) the name of the stream or other source from which the water is to be diverted;

73 (vi) the place on the stream or source where the water is to be diverted and the nature
74 of the diverting works;

75 (vii) the dimensions, grade, shape, and nature of the proposed diverting channel; and

76 (viii) other facts that clearly define the full purpose of the proposed appropriation.

77 (2) (a) In addition to the information required in Subsection (1)~~(b)~~(d), if the proposed
78 use is for irrigation, the application shall show:

79 (i) the legal subdivisions of the land proposed to be irrigated, with the total acreage
80 thereof; and

81 (ii) the character of the soil.

82 (b) In addition to the information required in Subsection (1)~~(b)~~(d), if the proposed use
83 is for developing power, the application shall show:

84 (i) the number, size, and kind of water wheels to be employed and the head under
85 which each wheel is to be operated;

86 (ii) the amount of power to be produced;

87 (iii) the purposes for which and the places where it is to be used; and

88 (iv) the point where the water is to be returned to the natural stream or source.

89 (c) In addition to the information required in Subsection (1)~~(b)~~(d), if the proposed use

90 is for milling or mining, the application shall show:

91 (i) the name of the mill and its location or the name of the mine and the mining district
92 in which it is situated;

93 (ii) its nature; and

94 (iii) the place where the water is to be returned to the natural stream or source.

95 (d) (i) The point of diversion and point of return of the water shall be designated with
96 reference to the United States land survey corners, mineral monuments or permanent federal
97 triangulation or traverse monuments, when either the point of diversion or the point of return is
98 situated within six miles of the corners and monuments.

99 (ii) If the point of diversion or point of return is located in unsurveyed territory, the
100 point may be designated with reference to a permanent, prominent natural object.

101 (iii) The storage of water by means of a reservoir shall be regarded as a diversion, and
102 the point of diversion in those cases is the point where the longitudinal axis of the dam crosses
103 the center of the stream bed.

104 (iv) The point where released storage water is taken from the stream shall be
105 designated as the point of rediversion.

106 (v) The lands to be inundated by any reservoir shall be described as nearly as may be,
107 and by government subdivision if upon surveyed land. The height of the dam, the capacity of
108 the reservoir, and the area of the surface when the reservoir is filled shall be given.

109 (vi) If the water is to be stored in an underground area or basin, the applicant shall
110 designate, with reference to the nearest United States land survey corner if situated within six
111 miles of it, the point of area of intake, the location of the underground area or basin, and the
112 points of collection.

113 (e) Applications for the appropriation of water filed prior to the enactment of this title,
114 by the United States of America, or any officer or agency of it, or the state of Utah, or any
115 officer or agency of it, are validated, subject to any action by the state engineer.