

WATER WELL AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses requirements related to water production wells.

Highlighted Provisions:

This bill:

▶ restricts the state engineer's rulemaking authority related to water production wells;

and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1, as last amended by Laws of Utah 2020, Chapters 60 and 352

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

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

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties --

Limitation on rulemaking.

(1) There shall be a state engineer.



- 28 (2) The state engineer shall:
- 29 (a) be appointed by the governor with the advice and consent of the Senate;
- 30 (b) hold office for the term of four years and until a successor is appointed; and
- 31 (c) have five years experience as a practical engineer or the theoretical knowledge,
- 32 practical experience, and skill necessary for the position.
- 33 (3) (a) The state engineer shall be responsible for the general administrative
- 34 supervision of the waters of the state and the measurement, appropriation, apportionment, and
- 35 distribution of those waters.
- 36 (b) The state engineer may secure the equitable apportionment and distribution of the
- 37 water according to the respective rights of appropriators.
- 38 (4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 39 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,
- 40 regarding:
- 41 (a) reports of water right conveyances;
- 42 (b) the construction of water wells and the licensing of water well drillers;
- 43 (c) dam construction and safety;
- 44 (d) the alteration of natural streams;
- 45 (e) geothermal resource conservation;
- 46 (f) enforcement orders and the imposition of fines and penalties;
- 47 (g) the duty of water; and
- 48 (h) standards for written plans of a public water supplier that may be presented as
- 49 evidence of reasonable future water requirements under Subsection [73-1-4\(2\)\(f\)](#).
- 50 (5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah
- 51 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,
- 52 governing:
- 53 (a) water distribution systems and water commissioners;
- 54 (b) water measurement and reporting;
- 55 (c) groundwater recharge and recovery;
- 56 (d) wastewater reuse;
- 57 (e) the form, content, and processing procedure for a claim under Section [73-5-13](#) to
- 58 surface or underground water that is not represented by a certificate of appropriation;

- 59 (f) the form and content of a proof submitted to the state engineer under Section
60 73-3-16;
- 61 (g) the determination of water rights; or
- 62 (h) the form and content of applications and related documents, maps, and reports.
- 63 (6) The state engineer may bring suit in courts of competent jurisdiction to:
- 64 (a) enjoin the unlawful appropriation, diversion, and use of surface and underground
65 water without first seeking redress through the administrative process;
- 66 (b) prevent theft, waste, loss, or pollution of surface and underground waters;
- 67 (c) enable the state engineer to carry out the duties of the state engineer's office; and
- 68 (d) enforce administrative orders and collect fines and penalties.
- 69 (7) The state engineer may:
- 70 (a) upon request from the board of trustees of an irrigation district under Title 17B,
71 Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited
72 Purpose Local Government Entities - Local Districts, or a special service district under Title
73 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a
74 water survey to be made of the lands proposed to be annexed to the district in order to
75 determine and allot the maximum amount of water that could be beneficially used on the land,
76 with a separate survey and allotment being made for each 40-acre or smaller tract in separate
77 ownership; and
- 78 (b) upon completion of the survey and allotment under Subsection (7)(a), file with the
79 district board a return of the survey and report of the allotment.
- 80 (8) (a) The state engineer may establish water distribution systems and define the water
81 distribution systems' boundaries.
- 82 (b) The water distribution systems shall be formed in a manner that:
- 83 (i) secures the best protection to the water claimants; and
- 84 (ii) is the most economical for the state to supervise.
- 85 (9) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the
86 depth of a water production well exempt the water production well from regulation under this
87 title or rules made under this title related to the:
- 88 (a) drilling, constructing, deepening, repairing, renovating, cleaning, developing,
89 testing, disinfecting, or abandonment of a water production well; or

90

(b) installation or repair of a pump for a water production well.