

WATER WELL AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: _____

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

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