



28 commissioner, the duties the person shall perform, and the compensation the person shall receive,  
29 and they make recommendations to the state engineer on the appointment, duties, and  
30 compensation, the state engineer shall act in accordance with their recommendations.

31 (c) If a majority of water users do not agree on the appointment, duties, or compensation,  
32 the state engineer shall make a determination for them.

33 (3) (a) The salary and expenses of the commissioner and all other expenses of distribution,  
34 including printing, postage, equipment, water users' expenses, and any other expenses considered  
35 necessary by the state engineer, shall be borne pro rata by the users of water from the river system  
36 or water source in accordance with a schedule to be fixed by the state engineer. The schedule shall  
37 be based on the established rights of each water user, and the pro rata share shall be paid by each  
38 water user to the state engineer on or before May 1 of each year.

39 (b) The payments shall be deposited in the Water Commissioner Fund created in Section  
40 73-5-1.5.

41 (c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state  
42 engineer may do any or all of the following:

43 (i) create a lien upon the water right affected by filing a notice of lien in the office of the  
44 county recorder in the county where the water is diverted and bring an action to enforce the lien;

45 (ii) forbid the use of water by the delinquent water user or the delinquent water user's  
46 successors or assignees, while the default continues; or

47 (iii) bring an action in the district court for the unpaid expense and salary.

48 (d) In any action brought to collect any unpaid assessment or to enforce any lien under this  
49 section, the delinquent water user shall be liable for the amount of the assessment, interest, any  
50 penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.

51 (4) (a) A commissioner may be removed by the state engineer for cause.

52 (b) The users of water from any river system or water source may petition the district court  
53 for the removal of a commissioner and after notice and hearing, the court may order the removal  
54 of the commissioner and direct the state engineer to appoint a successor.

55 (5) (a) In addition to the power granted to the state engineer to appoint water  
56 commissioners for the distribution of water, the state engineer may, at any time, hold a hearing,  
57 or upon a petition signed by not less than one-third of the users of underground waters in any area  
58 as defined by the state engineer, shall hold a hearing, to determine whether the underground water

59 supply within such area is adequate for the existing claims.

60 (b) (i) Notice of the hearing shall be given in a form and manner which, in the judgment  
61 of the state engineer, best suits local conditions.

62 (ii) The state engineer may make a full investigation and provide findings for the hearing.

63 (c) If the findings show that the water supply is inadequate for existing claims, the state  
64 engineer shall divide, or request that the water commissioner divide, the water supply among the  
65 claimants entitled to the water in accordance with their respective rights.

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**Legislative Review Note**  
**as of 12-1-99 8:22 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**