

STATE ENGINEER'S POWERS AND DUTIES

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill amends the powers and duties provisions of the state engineer.

Highlighted Provisions:

This bill:

- ▶ specifies rule making authority of the state engineer consistent with provisions of this title; and
- ▶ clarifies provisions relating to suits in court, to also include the prevention of theft of water.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1, as last amended by Chapter 90, Laws of Utah 2001

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.

- (1) There shall be a state engineer.
- (2) The state engineer shall:

- (a) be appointed by the governor with the consent of the Senate;
- (b) hold office for the term of four years and until a successor is appointed; and
- (c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

~~[(b)]~~ (4) The state engineer shall ~~[have the power to]~~ make rules, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

~~[(i) make and publish rules necessary to carry out the duties of his office;]~~

~~[(ii) secure the equitable apportionment and distribution of the water according to the respective rights of appropriators; and]~~

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) sewage effluent reuse;

(f) geothermal resource conservation; and

(g) enforcement orders and the imposition of fines and penalties.

(5) The state engineer may make rules, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) ground-water recharge and recovery;

(d) the determination of water rights; and

(e) the form and content of applications and related documents, maps, and reports.

~~[(iii)]~~ (6) The state engineer may bring suit in courts of competent jurisdiction to:

~~[(A)]~~ (a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

~~[(B)]~~ (b) prevent theft, waste, loss, or pollution of those waters; ~~[and]~~

~~[(C)]~~ (c) enable him to carry out the duties of his office~~[-]~~; and

(d) enforce administrative orders and collect fines and penalties.

~~[(e)]~~ (7) The state engineer ~~[shall]~~ may:

~~[(i)]~~ (a) upon request from the board of trustees of an irrigation district under Title 17A, Chapter 2, Part 7, Irrigation ~~[Districts]~~ District Act, or a local district under Title 17B, Chapter 2, Local Districts, that operates an irrigation water system, cause a water survey to be made of all lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

~~[(ii)]~~ (b) upon completion of the survey and allotment under Subsection ~~[(3)(e)(i)]~~ (7)(a), file with the district board a return of the survey and report of the allotment.

~~[(4)]~~ (8) (a) The state engineer may establish water ~~[districts]~~ distribution systems and define their boundaries.

(b) The water ~~[districts]~~ distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.