

Water Commissioner Modifications
 2025 GENERAL SESSION
 STATE OF UTAH
Chief Sponsor: Thomas W. Peterson
 Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill clarifies employment provisions for water commissioners.

Highlighted Provisions:

This bill:

- clarifies when a water commissioner is treated as a regular full-time employee;
- makes water commissioners eligible for health and retirement benefits under certain circumstances; and
- exempts water commissioners from the Utah State Personnel Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-5-1, as last amended by Laws of Utah 2021, Chapter 345

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

Section 1. Section **73-5-1** is amended to read:

73-5-1 . Appointment of water commissioners -- Procedure.

- (1)(a) If, in the judgment of the state engineer or the district court, it is necessary to appoint a water commissioner for the distribution of water from any river system or water source, the commissioner shall be appointed for a four-year term by the state engineer.
- (b) The state engineer shall determine whether all or a part of a river system or other water source shall be served by a commissioner, and if only a part is to be served, the state engineer shall determine the boundaries of that part.
- (c) The state engineer may appoint:

- 31 (i) more than one commissioner to distribute water from all or a part of a water
32 source; or
- 33 (ii) a single commissioner to distribute water from several separate and distinct water
34 sources.
- 35 (d) A water commissioner appointed by the state engineer under this section is:
- 36 (i) an employee of the Division of Water Rights;
- 37 (ii) an appointed officer under Subsection 49-13-102(5)(b)(iii), if the water
38 commissioner meets the requirements for a regular full-time employee under
39 Subsection 49-13-102(5)(a);
- 40 (iii) eligible for health and retirement benefits as determined by the water
41 commissioner's distribution system committee, if the water commissioner is a
42 regular full-time employee as that term is defined in Section 49-13-102; and
- 43 (iv) exempt from Title 63A, Chapter 17, Utah State Personnel Management Act.
- 44 [~~(ii) career service exempt under Subsection 63A-17-301(1)(k); and]~~
- 45 [~~(iii) exempt under Subsection 63A-17-307(2)(f) from the classified service~~
46 ~~provisions of Section 63A-17-307.]~~
- 47 (2)(a) The state engineer shall consult with the water users before appointing a
48 commissioner. The form of consultation and notice to be given shall be determined
49 by the state engineer so as to best suit local conditions, while providing for full
50 expression of majority opinion.
- 51 (b) The state engineer shall act in accordance with the recommendation of a majority of
52 the water users, if the majority of the water users:
- 53 (i) agree upon:
- 54 (A) a qualified individual to be appointed as a water commissioner;
- 55 (B) the duties the individual shall perform; and
- 56 (C) subject to the requirements of Title 49, Utah State Retirement and Insurance
57 Benefit Act, the compensation the individual shall receive; and
- 58 (ii) submit a recommendation to the state engineer on the items described in
59 Subsection (2)(b)(i).
- 60 (c) If a majority of water users do not agree on the appointment, duties, or
61 compensation, the state engineer shall make a determination for them.
- 62 (3)(a)(i) The salary and expenses of the commissioner and all other expenses of
63 distribution, including printing, postage, equipment, water users' expenses, and
64 any other expenses considered necessary by the state engineer, shall be borne pro

65 rata by the users of water from the river system or water source in accordance
66 with a schedule to be fixed by the state engineer.

67 (ii) The schedule shall be based on the established rights of each water user, and the
68 pro rata share shall be paid by each water user to the state engineer on or before
69 May 1 of each year.

70 (b) The payments shall be deposited in the Water Commissioner Fund created in Section
71 73-5-1.5.

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

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

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

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

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

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

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

89 **Section 2. Effective Date.**

90 This bill takes effect on May 7, 2025.