

1 **STATE ENGINEER'S POWERS AND DUTIES**

2 **AMENDMENTS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Clark**

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

12 ▶ specifies rule making authority of the state engineer consistent with provisions of
13 this title; and

14 ▶ clarifies provisions relating to suits in court, to also include the prevention of theft
15 of water.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **73-2-1**, as last amended by Chapter 90, Laws of Utah 2001

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

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

26 **73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**

27 (1) There shall be a state engineer.



28 (2) The state engineer shall:

29 (a) be appointed by the governor with the 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) ~~He~~ [f] (a) [g] ~~He~~ The state engineer shall ~~He~~ [z]

34 ~~(a)~~ ~~He~~ be responsible for the general administrative supervision of the waters of the state
35 and the measurement, appropriation, apportionment, and distribution of those waters[-]; and

36 (b) He the state engineer may He secure the equitable apportionment and distribution of
36a the water according to the

37 respective rights of appropriators.

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

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

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

44 (a) reports of water right conveyances;

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

46 (c) dam construction and safety;

47 (d) the alteration of natural streams;

48 (e) sewage effluent reuse;

49 (f) geothermal resource conservation; and

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

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

53 governing:

54 (a) water distribution systems and water commissioners;

55 (b) water measurement and reporting;

56 (c) ground-water recharge and recovery;

57 (d) the determination of water rights; and

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

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

60 [(A)] (a) enjoin the unlawful appropriation, diversion, and use of surface and

61 underground water without first seeking redress through the administrative process;

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

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

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

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

66 [(i)] (a) upon request from the board of trustees of an irrigation district under Title
67 17A, Chapter 2, Part 7, Irrigation [~~Districts~~] District Act, or a local district under Title 17B,
68 Chapter 2, Local Districts, that operates an irrigation water system, cause a water survey to be
69 made of all lands proposed to be annexed to the district in order to determine and allot the
70 maximum amount of water that could be beneficially used on the land, with a separate survey
71 and allotment being made for each 40-acre or smaller tract in separate ownership; and

72 [(ii)] (b) upon completion of the survey and allotment under Subsection [(3)(c)(i)]

73 (7)(a), file with the district board a return of the survey and report of the allotment.

74 [(4)] (8) (a) The state engineer may establish water [~~districts~~] distribution systems and
75 define their boundaries.

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

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

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

Legislative Review Note

as of 12-7-04 8:42 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-08-04 9:41 AM

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

**Legislative Committee Note
as of 12-08-04 9:41 AM**

The Water Issues Task Force recommended this bill.