

121 **73-5-1. Appointment of water commissioners -- Procedure.**

122 (1) (a) If, in the judgment of the state engineer or the district court, it is necessary to
 123 appoint a water commissioner for the distribution of water from any river system or water
 124 source, the commissioner shall be appointed for a four-year term by the state engineer.

125 (b) The state engineer shall determine whether all or a part of a river system or other
 126 water source shall be served by a commissioner, and if only a part is to be served, the state
 127 engineer shall determine the boundaries of that part.

128 (c) The state engineer may appoint:

129 (i) more than one commissioner to distribute water from all or a part of a water source;

130 or

131 (ii) a single commissioner to distribute water from several separate and distinct water
 132 sources.

133 (d) A water commissioner appointed by the state engineer under this section is:

134 (i) an employee of the Division of Water Rights;

135 (ii) career service exempt under Subsection 67-19-15(1)(j); and

136 (iii) exempt under Subsection 67-19-12(2)(f) from the classified service provisions of
 137 Section 67-19-12.

138 (2) (a) The state engineer shall consult with the water users before appointing a
 139 commissioner. The form of consultation and notice to be given shall be determined by the state
 140 engineer so as to best suit local conditions, while providing for full expression of majority
 141 opinion.

142 ~~[(b) If a majority of the water users agree upon a qualified person to be appointed as~~
 143 ~~water commissioner, the duties the person shall perform, and the compensation the person shall~~
 144 ~~receive, and they make recommendations to the state engineer on the appointment, duties, and~~
 145 ~~compensation, the state engineer shall act in accordance with their recommendations.]~~

146 (b) The state engineer shall act in accordance with the recommendation of a majority of
 147 the water users, if the majority of the water users:

148 (i) agree upon:

149 (A) ~~H~~→ [an] a qualified ~~←H~~ individual to be appointed as a water commissioner;

150 (B) the duties the individual shall perform; and

151 (C) subject to the requirements of Title 49, Utah State Retirement and Insurance