

1 *Senate* BILL NO. *213*
 2 INTRODUCED BY *Edward McCallister Kalstad*
 3 *Foster Holt Flynn*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 89-1001, R.C.M. 1947, TO PROVIDE AUTHORITY TO APPOINT A
 6 WATER COMMISSIONER TO INSURE DELIVERY OF WATER CONTRACTED BY
 7 AN IRRIGATION DISTRICT BOARD."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 89-1001, R.C.M. 1947, is amended to
 11 read as follows:

12 "89-1001. Appointment of water commissioners--
 13 authority--compensation. (1) Whenever the rights of persons
 14 to use the waters of any stream, ditch or extension of
 15 ditch, watercourse, spring, lake, reservoir, or other source
 16 of supply have been determined by a decree of a court of
 17 competent jurisdiction, it shall be the duty of the judge of
 18 the district court having jurisdiction of the subject
 19 matter, upon the application of the owners of at least
 20 fifteen per cent (15%) of the water rights affected by the
 21 decree, in the exercise of his discretion, to appoint one or
 22 more commissioners, who shall have authority to admeasure
 23 and distribute to the parties owning water rights in the
 24 source affected by the decree the waters to which they are
 25 entitled, according to their rights as fixed by the decree

1 and by any certificates and permits issued under the Montana
 2 Water Use Act provided that when petitioners make proper
 3 showing that they are not able to obtain the application of
 4 the owners of at least fifteen per cent (15%) of the water
 5 rights affected, and they are unable to obtain the water to
 6 which they are entitled, the judge of the district court
 7 having jurisdiction may, in his discretion, appoint a water
 8 commissioner.

9 (2) When the existing rights of all appropriators from
 10 a source or in an area have been determined in a final
 11 decree issued under the Montana Water Use Act, the judge of
 12 the district court which issued the final decree shall upon
 13 application by the department of natural resources and
 14 conservation appoint a water commissioner. The water
 15 commissioner shall distribute to the appropriators, from the
 16 source or in the area, the water to which they are entitled.

17 (3) The department of natural resources and
 18 conservation or any person or corporation operating under
 19 contract with the department, or any other owner of stored
 20 waters may petition the court to have such stored waters
 21 distributed by the water commissioners appointed by said
 22 court. The court may thereupon make an order requiring the
 23 commissioner or commissioners appointed by the court to
 24 distribute such stored water when and as released to water
 25 users entitled to the use thereof.

1 (4) Upon the issuance of such order the water
 2 commissioner or commissioners shall have authority and it is
 3 hereby made his or their duty to admeasure and distribute to
 4 the users thereof as their interests may appear and be
 5 required, the stored and supplemental waters stored and as
 6 released by the department of natural resources and
 7 conservation under provisions of the state Water
 8 Conservation Act, chapter 1 of this Title, to be diverted
 9 into and through said streams, ditch or extension of ditch,
 10 watercourse, spring, lake, reservoir, or other source of
 11 supply in the same manner and under the same rules and
 12 regulations as decreed water rights are admeasured and
 13 distributed, and such water commissioner or commissioners
 14 and the owners and users of such stored and supplemental
 15 waters shall be bound by and be subject to the provisions of
 16 this chapter, and all acts amendatory thereof and
 17 supplemental thereto, provided that the admeasurements and
 18 distribution of such stored and supplemental waters shall in
 19 no way interfere with decreed water rights. The purpose of
 20 this act is to provide a uniform, equitable and economical
 21 distribution of adjudicated, stored and supplemental waters.

22 (5) At the time of the appointment of such water
 23 commissioner or commissioners the district court shall fix
 24 their compensation, and the owners and users of the
 25 distributed waters shall pay their proportionate share of

1 such fees and compensation.

2 (6) Upon the application of the board or boards of one
 3 (1) or more irrigation districts entitled to the use of
 4 water stored in a reservoir which is turned into the natural
 5 channel of any stream and withdrawn or diverted at a point
 6 downstream for beneficial use, the district court of the
 7 judicial district wherein the most irrigable acres of the
 8 irrigation district or districts are situated may appoint a
 9 water commissioner to equitably admeasure and distribute
 10 such stored water to said irrigation district or districts
 11 from the channel of the stream into which it has been
 12 turned. A commissioner appointed under this subsection has
 13 the powers of any commissioner appointed under this chapter,
 14 limited only by the purposes of this subsection. His
 15 compensation is set by the appointing judge and paid by the
 16 requesting district or districts; in all other matters the
 17 provisions of this chapter apply so long as they are
 18 consistent with this subsection."

-End-

SECOND READING

MISSING

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and by any certificates and permits issued under the Montana Water Use Act provided that when petitioners make proper showing that they are not able to obtain the application of the owners of at least fifteen per cent (15%) of the water rights affected, and they are unable to obtain the water to which they are entitled, the judge of the district court having jurisdiction may, in his discretion, appoint a water commissioner.

(2) When the existing rights of all appropriators from a source or in an area have been determined in a final decree issued under the Montana Water Use Act, the judge of the district court which issued the final decree shall upon application by the department of natural resources and conservation appoint a water commissioner. The water commissioner shall distribute to the appropriators, from the source or in the area, the water to which they are entitled.

(3) The department of natural resources and conservation or any person or corporation operating under contract with the department, or any other owner of stored waters may petition the court to have such stored waters distributed by the water commissioners appointed by said court. The court may thereupon make an order requiring the commissioner or commissioners appointed by the court to distribute such stored water when and as released to water users entitled to the use thereof.

1 (4) Upon the issuance of such order the water
 2 commissioner or commissioners shall have authority and it is
 3 hereby made his or their duty to admeasure and distribute to
 4 the users thereof as their interests may appear and be
 5 required, the stored and supplemental waters stored and as
 6 released by the department of natural resources and
 7 conservation under provisions of the state Water
 8 Conservation Act, chapter 1 of this Title, to be diverted
 9 into and through said streams, ditch or extension of ditch,
 10 watercourse, spring, lake, reservoir, or other source of
 11 supply in the same manner and under the same rules and
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2 (6) Upon the application of the board or boards of one
 3 (1) or more irrigation districts entitled to the use of
 4 water stored in a reservoir which is turned into the natural
 5 channel of any stream and withdrawn or diverted at a point
 6 downstream for beneficial use, the district court of the
 7 judicial district wherein the most irrigable acres of the
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-End-

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 2 INTRODUCED BY ETCHART, MCCALLUM, KOLSTAD, FOSTER,
 3 GALT, FLYNN
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