

CHAPTER NO. 444.

SENATE BILL NO. 410

INTRODUCED BY ETCHART, CONOVER, McCALLUM, NELSON

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
February 12, 1979	Committee recommend bill do pass. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Motion pass consideration.
February 15, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 19, 1979	Introduced and referred to Select Committee on Water.
March 9, 1979	Committee recommend bill be concurred in. Report adopted.
March 13, 1979	Second reading, concurred in.
March 16, 1979	Third reading, concurred in.

IN THE SENATE

March 17, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Arts* BILL NO. 410
 2 INTRODUCED BY *Richard Connor McCallen NELSON*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IRRIGATION
 5 DISTRICTS AND OTHER USERS OF STORED WATER TO SHARE THE
 6 EXPENSES AND COSTS OF A WATER COMMISSIONER APPOINTED TO
 7 ADMEASURE AND DISTRIBUTE WATER STORED IN A RESERVOIR;
 8 AMENDING SECTION 85-5-101, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 85-5-101, MCA, is amended to read:

12 "85-5-101. Appointment of water commissioners. (1)
 13 Whenever the rights of persons to use the waters of any
 14 stream, ditch or extension of ditch, watercourse, spring,
 15 lake, reservoir, or other source of supply have been
 16 determined by a decree of a court of competent jurisdiction,
 17 it shall be the duty of the judge of the district court
 18 having jurisdiction of the subject matter, upon the
 19 application of the owners of at least 15% of the water
 20 rights affected by the decree, in the exercise of his
 21 discretion, to appoint one or more commissioners. The
 22 commissioners shall have authority to admeasure and
 23 distribute to the parties owning water rights in the source
 24 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 chapter 2
 2 of this title. When petitioners make proper showing that
 3 they are not able to obtain the application of the owners of
 4 at least 15% of the water rights affected and they are
 5 unable to obtain the water to which they are entitled, the
 6 judge of the district court having jurisdiction may, in his
 7 discretion, appoint a water commissioner.

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

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

25 (4) At the time of the appointment of such water

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 -2- INTRODUCED BILL

1 commissioner or commissioners, the district court shall fix
2 their compensation, and the owners and users of the
3 distributed waters shall pay their proportionate share of
4 such fees and compensation.

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

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

1 *Senate* BILL NO. *410*
2 INTRODUCED BY *Ernest Casper McCallen NELSON*

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17 it shall be the duty of the judge of the district court
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19 application of the owners of at least 15% of the water
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10 judicial district wherein the most irrigable acres of the
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