

HOUSE BILL NO. HB0222

Establishment of private roads.

Sponsored by: Representative(s) Brown

A BILL

for

1 AN ACT relating to establishment of private roads;
2 specifying procedures for hearings; providing for access to
3 the district court; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

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7 **Section 1.** W.S. 24-9-101(h), (k) and (m) is amended
8 to read:

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10 **24-9-101. Petition; initial hearing; appointment of**
11 **viewers and appraisers; bond; rules; certification to**
12 **district court.**

13

14 (h) If at the completion of the hearing the board
15 finds that the applicant has satisfied the requirements of
16 this section and access is necessary because the applicant
17 has no legally enforceable access, the board shall within

1 thirty (30) days of the completion of the hearing enter its
2 order so finding and certify the application directly to
3 the district court unless the board elects to retain
4 jurisdiction. If the application is certified the court
5 shall proceed as provided in subsection (m) of this
6 section. If the board elects to retain jurisdiction it
7 shall proceed with the application as provided in this
8 subsection, subsections (j) through (k) of this section and
9 W.S. 24-9-103. The board shall appoint three (3)
10 disinterested freeholders and electors of the county, as
11 viewers and appraisers. Before entering upon their duties
12 the viewers shall take and subscribe to an oath that they
13 will faithfully and impartially perform their duties under
14 their appointment as viewers and appraisers. The board
15 shall cause an order to be issued directing them to meet on
16 a day named in the order on the proposed road, and view and
17 appraise any damages and make a recommendation to the
18 board. Prior to meeting on-site to view the proposed road,
19 the viewers shall give notice in writing to the applicant
20 and affected parties of the lands through which the
21 proposed road or any alternative road may pass, of the time
22 and place where the viewers will meet, at least ten (10)
23 days before viewing the road, at which time and place all
24 persons interested may appear and be heard by the viewers.

1 The viewers and appraisers shall then proceed to locate and
2 mark out a private road and alternative routes as they deem
3 appropriate, provided the location of the road shall not be
4 marked out to cross the lands of any affected party who was
5 not given notice under subsection (e) of this section. The
6 viewers and appraisers shall recommend the most reasonable
7 and convenient route, provided that access shall be along
8 section and boundary lines whenever practical. The viewers
9 and appraisers may recommend specific conditions that the
10 board place on the road as the board deems necessary,
11 including provisions for maintenance and limitations on the
12 amount and type of use. The proposed road shall not exceed
13 thirty (30) feet in width from a certain point on the land
14 of the applicant to some certain point on the public road,
15 and shall be located so as to do the least possible damage
16 to the lands through which the private road is located. The
17 viewers and appraisers shall also appraise any damages
18 sustained by the owner over which the road is to be
19 established and make full and true returns, with a plat of
20 the road to the board of county commissioners. The viewers
21 and appraisers shall also determine whether or not any
22 gates or cattleguards shall be placed at proper points on
23 the road, and appraise any damages in accordance with that
24 determination.

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2 (k) All hearings conducted by the board of county
3 commissioners under this section and W.S. 24-9-103 shall be
4 held in accordance with the Wyoming Administrative
5 Procedure Act, as it applies to a contested case. The
6 board shall enforce the provisions of this article in
7 accordance with the Wyoming Administrative Procedure Act.

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9 (m) If ~~at the completion of the hearing~~ the board
10 ~~finds that the applicant has satisfied the requirements of~~
11 ~~this section and access is necessary because the applicant~~
12 ~~has no legally enforceable access, the board shall, within~~
13 ~~twenty (20) days of so finding, certify~~ certifies the
14 application directly to the district court ~~unless the board~~
15 ~~elects to retain jurisdiction.~~ the board shall within
16 twenty (20) days of entering its order send notice of the
17 ~~board's certification shall be made~~ in writing to the clerk
18 of the district court and to all affected parties having an
19 interest in the lands through which the proposed road or
20 any alternative road may pass. The ~~district court shall~~
21 ~~treat the certified application as a newly filed civil~~
22 ~~action~~ certification shall be filed as a civil action in
23 district court upon payment of a filing fee by the
24 applicant as provided in W.S. 5-3-206(a)(i). The

1 certification shall be the final decision of the board for
2 purposes of appealing the board's determination that the
3 applicant has satisfied the requirements of this section
4 and access is necessary. If that final decision is
5 appealed the appeal shall be finally adjudicated in
6 accordance with the Wyoming Administrative Procedure Act
7 and the Wyoming Rules of Appellate Procedure. After any
8 such appeal is finally adjudicated, the court shall proceed
9 with the matter in the manner provided in and consistent
10 with subsections (h) and (j) of this section and W.S.
11 24-9-103, except that the case shall be conducted in
12 accordance with the rules of civil procedure, the court
13 shall act in place of the board of county commissioners,
14 and the provisions of the Wyoming Administrative Procedure
15 Act shall not apply.

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17 **Section 2.** This act is effective July 1, 2009.

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(END)