

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO. \_\_\_\_\_

Irrigation districts-change of place of use.

Sponsored by: Joint Agriculture, State and Public Lands  
and Water Resources Interim Committee

A BILL

for

1 AN ACT relating to water; defining historic use of  
2 irrigation water; providing for the transfer of irrigation  
3 water to other lands when lands within an irrigation  
4 district are taken out of agricultural production, as  
5 specified; extending the time to petition for the change of  
6 place of use; and providing for an effective date.

7

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

9

10 **Section 1.** W.S. 41-3-104(a)(intro), (iii), by  
11 creating a new paragraph (iv) and by creating a new  
12 subsection (c) and 41-3-108(a) and (c) are amended to read:

13

1           **41-3-104. Procedure to change use or place of use.**

2

3           (a) When an owner of a water right wishes to change a  
4 water right from its present use to another use, or from  
5 the place of use under the existing right to a new place of  
6 use, he shall file a petition requesting permission to make  
7 such a change. The petition shall set forth all pertinent  
8 facts about the existing use and the proposed change in  
9 use, or, where a change in place of use is requested, all  
10 pertinent information about the existing place of use and  
11 the proposed place of use. The board may require that an  
12 advertised public hearing or hearings be held at the  
13 petitioner's expense. The petitioner shall provide a  
14 transcript of the public hearing to the board. The change  
15 in use, or change in place of use, may be allowed, provided  
16 that the quantity of water transferred by the granting of  
17 the petition shall not exceed the amount of water  
18 historically diverted under the existing use, nor exceed  
19 the historic rate of diversion under the existing use, nor  
20 increase the historic amount consumptively used under the  
21 existing use, nor decrease the historic amount of return  
22 flow, nor in any manner injure other existing lawful  
23 appropriators. As used in this subsection, "historically

1 diverted", "historic rate of diversion", "historic amount"  
2 or "historic amount consumptively used" shall be based upon  
3 the date the water right was established, to the extent the  
4 information is available. The board of control shall  
5 consider all facts it believes pertinent to the transfer  
6 which may include the following:

7  
8 (iii) Whether other sources of water are  
9 available for the new use;

10  
11 (iv) The impact of the loss of irrigated acres  
12 on any interstate water use or any interstate compact.

13  
14 (c) When lands within an irrigation district are taken  
15 out of agricultural production as the necessary result of  
16 acquisitions, including but not limited to, railroad  
17 roadbed construction, highway construction, county roads,  
18 city streets, subdivision development, farmstead  
19 development, mining or petroleum extraction operations or  
20 industrial site acquisitions or lands taken by proceedings  
21 in eminent domain or which have become impracticable to  
22 irrigate by reason of any of the foregoing conditions, the  
23 owner may petition to the board of control to change the

1 location of the irrigation right to other lands within the  
2 irrigation district provided the conditions required in  
3 subsection (a) of this section are met. Historical use and  
4 consumptive use shall be liberally construed to provide  
5 beneficial use of the water right.

6  
7 **41-3-108. Lands taken out of agricultural production**  
8 **or lands taken by eminent domain; retention of priority.**

9  
10 (a) Where lands are taken out of agricultural  
11 production as the necessary result of acquisitions, ~~for~~  
12 including but not limited to, railroad roadbed  
13 construction, highway construction, county roads, city  
14 streets, subdivision development, farmstead development,  
15 mining or petroleum extraction operations or industrial  
16 site acquisitions or lands taken by proceedings in eminent  
17 domain or which have become impracticable to irrigate by  
18 reason of any of the foregoing conditions, the owner of an  
19 affected water right may transfer the water right to other  
20 lands held by the owner. The petition for the change in  
21 use, or change in place of use shall be properly filed  
22 within five (5) years of the date the land went out of  
23 production because of any of the conditions specified

1 herein or by June 30, 2016, whichever is later. Failure to  
2 file the petition within five (5) years or by June 30,  
3 2016, whichever is later, results in forfeiture of the  
4 right except as otherwise provided.

5  
6 (c) ~~For a period of five (5) years after the~~  
7 ~~effective date of this act~~ No later than June 30, 2016, any  
8 appropriator whose land has been out of production for more  
9 than five (5) years may petition the board requesting  
10 transfer of the water rights involved. The granting or  
11 denial of a petition under these circumstances is within  
12 the discretion of the board. The decision of the board may  
13 be appealed to the district court. The board may hold  
14 public hearings in connection with a petition being  
15 considered pursuant to this section. All costs in  
16 conjunction with the hearing shall be borne by the  
17 petitioner.

18  
19 **Section 2.** This act is effective July 1, 2011.

20  
21 (END)