

SENATE FILE NO. SF0006

Groundwater contested cases.

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

A BILL

for

1 AN ACT relating to water; specifying how certain water
2 right hearings before the state engineer and the board of
3 control shall proceed; providing for allocation of costs of
4 hearings; specifying that certain decisions may be subject
5 to additional review by the board of control; and providing
6 for an effective date.

7

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

9

10 **Section 1.** W.S. 41-3-932(a), (b) and by creating a
11 new subsection (e) is amended to read:

12

13 **41-3-932. Public notice of application or petition;**
14 **hearing before state engineer and control area advisory**
15 **board; cost.**

16

1 (a) Upon the filing of a petition to amend an
2 existing water right or an application to appropriate
3 underground water for any use other than domestic,
4 stockwatering or miscellaneous purposes where the quantity
5 of water to be appropriated is twenty-five (25) gallons of
6 water per minute or less, from an area designated as a
7 control area by the state board of control, the state
8 engineer shall cause to be published, at applicant's
9 expense, in a newspaper of general circulation in the
10 county wherein the proposed well or requested change will
11 be located, for at least once a week for three (3)
12 consecutive weeks, a notice of the filing of the
13 application or requested changes and that objections to the
14 granting thereof may be filed within ten (10) days after
15 the last publication of the notice, on the grounds that
16 there is no unappropriated water in the proposed source of
17 supply or that the granting of the application would be
18 detrimental to the public interest. If objections are filed
19 within the time specified in the notice, the state engineer
20 shall set a date for a hearing on the application or
21 requested changes and the objections thereto and shall
22 notify the applicant or petitioner and the objectors
23 thereof. If the applicant or petitioner questions the
24 standing of the objector, the state engineer shall make

1 written findings of fact on the issue and may overrule the
2 objection on that basis. The hearing shall be before the
3 control area advisory board and the state engineer, ~~or~~
4 ~~state board of control~~, and shall be held in an appropriate
5 place within the county in which the proposed well or
6 requested change is to be located. The state engineer, for
7 good cause, may impose costs of the hearing proportionally
8 upon the applicant or petitioner and the objectors. The
9 hearing under this subsection shall be a contested case
10 hearing conducted in conformance with and subject to the
11 provisions of the Wyoming Administrative Procedure Act. A
12 decision by the state engineer granting or denying an
13 application or petition under this subsection may be
14 appealed to the board of control within thirty (30) days of
15 the date of receipt of notice of the decision. Upon appeal
16 and based on the contested case record or upon additional
17 evidence taken at the direction of the board, the board may
18 affirm, modify or reverse the findings of the state
19 engineer. An appeal from an order of the board of control
20 may be taken to the district court pursuant to the Wyoming
21 Administrative Procedure Act.

22

23 (b) If no objections are filed against the
24 application or petition under subsection (a) of this

1 section but the state engineer is of the opinion that the
2 application or petition may be detrimental to the public
3 interest, or desires to obtain the recommendations of the
4 control area advisory board, he shall set a date for a
5 public hearing on the application or petition and shall
6 notify the applicant or petitioner of the time and place
7 thereof. Not less than fifteen (15) days prior to the
8 hearing the state engineer shall cause notice of the
9 hearing to be published, at the expense of the applicant or
10 petitioner, in at least one (1) newspaper having general
11 circulation in the county in which the proposed well or
12 requested change is to be located. The state engineer shall
13 notify the applicant or petitioner of the time and place of
14 the hearing. The public hearing ~~shall be open to the~~
15 ~~public, and~~ shall be held before the control area advisory
16 board and the state engineer ~~or the state board of control~~
17 in an appropriate place in the county in which the proposed
18 well or requested change is to be located. In making any
19 determination required by this section, the state engineer
20 may rely upon records and information on file in his office
21 or in the office of the board of control. In the event a
22 hearing is held he shall make known to the parties the
23 records and information upon which he relies. ~~The state~~
24 ~~engineer, for good cause, may impose costs of the hearing~~

1 ~~proportionally upon the applicant or petitioner and the~~
2 ~~objectors.~~ A decision by the state engineer under this
3 subsection may be appealed to the board of control within
4 thirty (30) days of the date of receipt of notice of the
5 decision. Upon appeal the board of control shall conduct a
6 contested case hearing in accordance with its rules and
7 regulations and the Wyoming Administrative Procedure Act.
8 An appeal from an order of the board of control may be
9 taken to the district court pursuant to the Wyoming
10 Administrative Procedure Act.

11
12 (e) A petition to amend an existing water right which
13 originated with the board of control may be subject to
14 additional action by the board of control. Any petition to
15 amend an existing water right granted by the state engineer
16 pursuant to this section, if that decision is not appealed,
17 shall be returned to the board of control for any
18 additional action that may be required by law.

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20 **Section 2.** W.S. 41-3-932(d) is repealed.

21
22 **Section 3.** This act is effective July 1, 2014.

23
24 (END)