

SENATE FILE NO. SF0122

Water development amendments.

Sponsored by: Senator(s) Hicks, Driskill and Meier and
Representative(s) Lindholm, McKim and Paxton

A BILL

for

1 AN ACT relating to water development; providing that the
2 water development program is for projects necessary for
3 public benefit as specified; eliminating the salary for
4 members of the water development commission; requiring
5 commission members to disclose specified information;
6 requiring the state engineer to maintain a list of
7 beneficial uses of water; providing rulemaking authority;
8 providing applicability; and providing for an effective
9 date.

10

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

12

13 **Section 1.** W.S. 41-2-112(a), 41-2-113(a) by creating
14 a new paragraph (iv), 41-2-115(a) and (c), 41-2-118(b),

1 41-2-121(c) by creating a new paragraph (iii) and 41-3-101
2 are amended to read:

3
4 **41-2-112. Wyoming water development program.**

5
6 (a) The Wyoming water development program is
7 established to foster, promote and encourage the optimal
8 development of the state's human, industrial, mineral,
9 agricultural, water and recreational resources. The program
10 shall provide, through the commission, procedures and
11 policies for the planning, selection, financing,
12 construction, acquisition and operation of projects and
13 facilities for the conservation, storage, distribution and
14 use of water, necessary ~~in the public interest~~ for public
15 benefit to develop and preserve Wyoming's water and related
16 land resources. The program shall:

17
18 (i) Encourage development of water facilities
19 for irrigation, for reduction of flood damage, for
20 abatement of pollution, for preservation and development of
21 fish and wildlife resources and for protection and
22 improvement of public lands; ~~and shall~~

1 (ii) Help make available the waters of this
2 state for all beneficial uses,~~including but not limited to~~
3 ~~municipal, domestic, agricultural, industrial, instream~~
4 ~~flows, hydroelectric power and recreational purposes,~~ as
5 defined in statute or determined by the state engineer, the
6 conservation of land resources and the protection of the
7 health, safety and general welfare of the people of the
8 state of Wyoming.

9
10 **41-2-113. Definitions.**

11
12 (a) As used in W.S. 41-1-106 through 41-1-108 and
13 41-2-107 through 41-2-118:

14
15 (iv) "Public benefit" means the use of Wyoming's
16 water for beneficial uses as defined in statute or
17 determined by the state engineer.

18
19 **41-2-115. Report; authorization; assignment.**

20
21 (a) In preparation of the final concept design under
22 W.S. 41-2-114(a)(ii), the commission shall after giving
23 public notice hold a public hearing within the affected

1 water division. Any interested person, association or state
2 or federal agency may appear and participate as a party.
3 Following the hearing, the commission shall make public a
4 report of their findings relative to whether the project is
5 ~~in the public interest~~ for public benefit, stipulating if
6 the proposed project functions and services can be served
7 by any person, association or corporation engaged in
8 private enterprise, or if private enterprise has refused to
9 provide the functions and services identified as being
10 required by the proposed project. The commission shall then
11 proceed as set forth in subsections (b) and (c) of this
12 section. Nothing in this section shall be construed to
13 interfere with the duties of the state engineer or the
14 state board of control.

15
16 (c) If the commission finds that a project is
17 desirable and ~~in the public interest~~ for public benefit,
18 and that some other governmental agency, public district or
19 private corporation or association is desirous and capable
20 of constructing, operating and maintaining the project and
21 accomplishing the public interest to be served thereby, the
22 commission, with the approval of the governor and the
23 legislature, shall transfer or assign the project and any

1 property or rights connected therewith to the agency,
2 district, corporation or association upon agreed terms for
3 reimbursement of the expense of predevelopment costs,
4 payment for property and assurances of construction,
5 operation and maintenance.

6
7 **41-2-118. Powers, duties and reimbursement of**
8 **commission.**

9
10 (b) Commission members shall receive ~~a salary of one~~
11 ~~hundred twenty five dollars (\$125.00) per day and actual~~
12 ~~and necessary traveling expenses while away from home while~~
13 ~~engaged in the performance of commission duties~~ no
14 compensation, but shall be reimbursed under W.S. 9-3-102
15 and 9-3-103 for travel and per diem expenses incurred in
16 the performance of their duties on the commission.

17
18 **41-2-121. Criteria for water development projects;**
19 **disclosure of personal interests by commission.**

20
21 (c) Within sixty (60) days after the effective date
22 of this subsection or within sixty (60) days following
23 appointment and annually on or before January 1, each

1 member of the commission shall file written disclosures
2 relative to all interests held by the member or the
3 member's spouse, including interests in partnerships and
4 corporations, with the secretary of state, of:

5
6 (iii) Any interests in a law firm or legal
7 practice that represents clients with applications for
8 water projects or clients who have water projects that are
9 or have been funded by the commission.

10
11 **41-3-101. Nature of water rights and beneficial use.**

12
13 (a) A water right is a right to use the water of the
14 state, when such use has been acquired by the beneficial
15 application of water under the laws of the state relating
16 thereto, and in conformity with the rules and regulations
17 dependent thereon. Beneficial use shall be the basis, the
18 measure and limit of the right to use water at all times,
19 not exceeding the statutory limit except as provided by
20 W.S. 41-4-317. In addition to any beneficial use specified
21 by law or rule and regulation promulgated pursuant thereto,
22 the use of water for the purpose of extracting heat
23 therefrom is considered a beneficial use subject to prior

1 rights. Water being always the property of the state,
2 rights to its use shall attach to the land for irrigation,
3 or to such other purposes or object for which acquired in
4 accordance with the beneficial use made for which the right
5 receives public recognition, under the law and the
6 administration provided thereby. Water rights for the
7 direct use of the natural unstored flow of any stream
8 cannot be detached from the lands, place or purpose for
9 which they are acquired, except as provided in W.S.
10 41-3-102 and 41-3-103, pertaining to a change to preferred
11 use, and except as provided in W.S. 41-4-514.

12

13 (b) The state engineer shall by rule and regulation
14 develop and maintain a list of all beneficial uses as
15 provided in statute or determined by the state engineer.
16 The list of beneficial uses shall be available in print for
17 public inspection at the office of the state engineer and
18 shall be made available on the website of the state
19 engineer. Nothing in this subsection shall be deemed to
20 affect any beneficial use determination made prior to July
21 1, 2017 for any existing water right.

22

Section 2. W.S. 41-2-118(b) as amended by section 1 of this act shall apply to any commission member appointed to the commission on or after the effective date of this act, including a commission member appointed to fill the unexpired term of a vacant office of the commission.

6

7 **Section 3.** This act is effective July 1, 2017.

8

9 (END)