

SENATE FILE NO. SF0087

Temporary instream water use.

Sponsored by: Senator(s) Case and Representative(s)  
Blackburn, Pelkey and Zwonitzer

A BILL

for

1 AN ACT relating to water; providing for the temporary  
2 acquisition of the use of an existing water right for instream  
3 flow purposes by any person as specified; providing  
4 requirements; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 41-3-110(a), 41-3-1002(e) and 41-3-1007  
9 by creating a new subsection (b) and by amending and  
10 renumbering (b) as (c) are amended to read:

11

12 **41-3-110. Right to acquire temporary water rights for**  
13 **highway or railroad roadbed construction or repair;**  
14 **application; restrictions; fee.**

15

1           (a) Any person shall have the right to acquire by  
2 purchase, gift or lease the right to the use of water which  
3 may be embraced in any adjudicated or valid unadjudicated  
4 water right, or any portion thereof, for a period of not to  
5 exceed two (2) years, for highway construction or repair,  
6 railroad roadbed construction or repair, drilling and  
7 producing operations, instream flow purposes as specified in  
8 W.S. 41-3-1007(b) or other temporary purposes, on its own  
9 behalf or on behalf of its agents, employees or contractors:  
10 provided, that if the proposed use is to be for public highway  
11 construction or repair under a contract with the state  
12 department of transportation, only the state transportation  
13 commission shall have the authority to acquire the water; and  
14 the state transportation commission shall have the sole and  
15 continuing responsibility for the acquisition, including the  
16 payment of all fees, royalties and other consideration for  
17 the use of and access to water and the right to acquire the  
18 rights to use shall not be delegated to a construction  
19 contractor or other third party; and further provided, that  
20 any temporary transfer shall be allowed only if no other  
21 appropriator is injured thereby.

22

1           41-3-1002. Instream flows to be by stream segment;  
2 waters for instream flows may be sold, transferred or  
3 otherwise conveyed under certain restrictions; ownership  
4 restricted.

5  
6           (e) No person other than the state of Wyoming shall own  
7 any instream flow water right, except that any person may  
8 acquire the use of an existing water right on a temporary  
9 basis for instream flow purposes as specified in W.S.  
10 41-3-1007(b).

11  
12           41-3-1007. Acquisition of existing rights for instream  
13 flow purposes.

14  
15           **(b)** Any person may acquire the use of an existing water  
16 right on a temporary basis for instream flow purposes in  
17 accordance with W.S. 41-3-110. Any use of the right acquired  
18 shall be in the name of the applicant and shall be  
19 administered by the state engineer and the board of control,  
20 who shall ensure that the use of water for instream flows  
21 shall not interfere with existing water rights or impair the  
22 value of those rights or related property.

23

1        ~~(b)(c)~~ Any ~~such~~ water rights acquired and changed  
2 pursuant to subsection (a) of this section shall be limited  
3 to a specified stream segment by the board of control with  
4 priority date intact. The use of an existing water right on  
5 a temporary basis for instream flow purposes acquired  
6 pursuant to subsection (b) of this section shall be limited  
7 to a specified stream segment by the board of control. The  
8 state engineer may regulate the temporary use of the existing  
9 water right as provided in subsection (b) of this section,  
10 provided that the priority date of the existing water right  
11 shall remain intact.

12

13        **Section 2.** This act is effective July 1, 2019.

14

15

(END)