

SENATE FILE NO. SF0075

Instream flow application process.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to water; amending the instream flow  
2 application process; requiring a hearing and providing for  
3 an effective date.

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

6

7 **Section 1.** W.S. 41-3-1003(b) and (c) and 41-3-1004  
8 are amended to read:

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10 **41-3-1003. Game and fish commission; construction of**  
11 **measuring devices; recommendations; permits; fees and**  
12 **costs.**

13

14 (b) The state game and fish commission may ~~report~~  
15 ~~recommend~~ to the water development commission annually  
16 those specific segments of stream which the game and fish

1 commission considers to have the most critical need for  
2 instream flows. The game and fish commission shall identify  
3 the points on the stream at which the need for instream  
4 flows begins and ends, the time of year when the flows are  
5 most critical and a detailed description of the minimum  
6 amount of water necessary to provide adequate instream  
7 flows. Upon receiving a recommendation from the game and  
8 fish commission on the need for instream flows on specific  
9 segments of stream, the water development commission shall  
10 file applications in the name of the state of Wyoming for  
11 permits to appropriate water for instream flows in those  
12 segments of stream recommended by the game and fish  
13 commission. After submitting its recommendation to the  
14 water development commission, the game and fish commission  
15 shall hold a public meeting in the community closest to, or  
16 within the same drainage as, any segments of stream for  
17 which the game and fish commission submitted a  
18 recommendation for instream flows. The game and fish  
19 commission shall provide notice of the public meeting to:

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21 (i) Landowners adjacent to any stream segment  
22 recommended for instream flows;

23

1           (ii) Owners of appropriations which divert  
2 within any stream segment recommended for instream flows;  
3 and

4  
5           (iii) Secondary permit holders appropriating  
6 stored water out of any reservoir the game and fish  
7 commission anticipates being a source for any stream  
8 segment recommended for instream flows.

9  
10          ~~(c) The water development commission shall file~~  
11 ~~applications in the name of the state of Wyoming for~~  
12 ~~permits to appropriate water for instream flows in those~~  
13 ~~segments of stream recommended by the game and fish~~  
14 ~~commission.~~ Following the public meeting required by W.S.  
15 41-3-1003(b) the game and fish commission shall transmit  
16 any written comments received regarding the recommended  
17 instream flow segments and the detailed written summary of  
18 the public meeting to the water development commission for  
19 review. Upon reviewing the recommendation, written comments  
20 and public meeting summary, the commission may select the  
21 recommended instream flow segments for further study in  
22 accordance with W.S. 41-2-1004 or may disqualify the  
23 recommended instream flow segments from further study. Any

1 selection or disqualification of a recommended instream  
2 flow segment for further study by the commission shall be  
3 specifically exempt from all provisions of the Wyoming  
4 Administrative Procedure Act in accordance with W.S.  
5 41-2-121(d). If the commission disqualifies a recommended  
6 stream segment from further study, the commission shall  
7 withdraw its application for a permit to appropriate water  
8 for instream flows on the disqualified segment of stream.

9 The state engineer shall not grant any permits to  
10 appropriate or store water for instream flows prior to the  
11 completion of the study provided by W.S. 41-3-1004 or prior  
12 to the hearing required by W.S. 41-3-1006. Fees and costs  
13 of the commission associated with permit applications and  
14 adjudication of water rights shall be borne by the game and  
15 fish commission.

16

17 **41-3-1004. Water development commission to determine**  
18 **storage feasibility; report to the game and fish commission**  
19 **and the legislature.**

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21 (a) ~~Immediately after permits have been applied for~~  
22 After selecting a recommended instream flow segment for  
23 further study under W.S. 41-3-1003(c), the water

1 development commission shall determine the feasibility of  
2 providing instream flows for the recommended segments of  
3 streams from unappropriated direct flows or from existing  
4 storage facilities or from new facilities. The feasibility  
5 study shall include a determination of water necessary to  
6 maintain or improve existing fisheries for water rights  
7 under W.S. 41-3-1001(b) or of water necessary to provide  
8 fisheries for water rights under W.S. 41-3-1001(a). The  
9 feasibility study shall also include the availability of  
10 storage sites, the estimated cost of providing any required  
11 storage and such other findings and conclusions as the  
12 water development commission deems appropriate. The cost of  
13 any consultant and any associated costs that the water  
14 development commission determines are necessary to complete  
15 a feasibility study under this section shall be borne by  
16 the game and fish commission. The water development  
17 commission shall consult with the game and fish commission  
18 prior to entering into any contract related to a  
19 feasibility study under this section.

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21 (b) The water development commission shall ~~make a~~  
22 report its findings to the game and fish commission and to

1 the legislature ~~outlining their findings~~ during its next  
2 general session.

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4 **Section 2.** This act is effective July 1, 2020.

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6

(END)