

ENROLLED ACT NO. 28, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING  
2014 BUDGET SESSION

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

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

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

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

(a) Upon the filing of a petition to amend an existing water right or an application to appropriate underground water for any use other than domestic, stockwatering or miscellaneous purposes where the quantity of water to be appropriated is twenty-five (25) gallons of water per minute or less, from an area designated as a control area by the state board of control, the state engineer shall cause to be published, at applicant's expense, in a newspaper of general circulation in the county wherein the proposed well or requested change will be located, for at least once a week for three (3) consecutive weeks, a notice of the filing of the application or requested changes and that objections to the granting thereof may be filed within ten (10) days after the last publication of the notice, on the grounds that there is no unappropriated water in the proposed source of supply or that the granting of the application would be detrimental to the public interest. If objections are filed within the time specified in the notice, the state engineer

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shall set a date for a hearing on the application or requested changes and the objections thereto and shall notify the applicant or petitioner and the objectors thereof. If the applicant or petitioner questions the standing of the objector, the state engineer shall make written findings of fact on the issue and may overrule the objection on that basis. The hearing shall be before the control area advisory board and the state engineer, ~~or state board of control,~~ and shall be held in an appropriate place within the county in which the proposed well or requested change is to be located. The state engineer, for good cause, may impose costs of the hearing proportionally upon the applicant or petitioner and the objectors. The hearing under this subsection shall be a contested case hearing conducted in conformance with and subject to the provisions of the Wyoming Administrative Procedure Act. A decision by the state engineer granting or denying an application or petition under this subsection may be appealed to the board of control within thirty (30) days of the date of receipt of notice of the decision. Upon appeal and based on the contested case record and upon additional evidence, if any, taken at the direction of the board, the board may affirm, modify or reverse the findings of the state engineer. An appeal from an order of the board of control may be taken to the district court pursuant to the Wyoming Administrative Procedure Act.

(b) If no objections are filed against the application or petition under subsection (a) of this section but the state engineer is of the opinion that the application or petition may be detrimental to the public interest, or desires to obtain the recommendations of the control area advisory board, he shall set a date for a public hearing on the application or petition and shall notify the applicant or petitioner of the time and place thereof. Not less than fifteen (15) days prior to the

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hearing the state engineer shall cause notice of the hearing to be published, at the expense of the applicant or petitioner, in at least one (1) newspaper having general circulation in the county in which the proposed well or requested change is to be located. The state engineer shall notify the applicant or petitioner of the time and place of the hearing. The public hearing shall be open to the public, and shall be held before the control area advisory board and the state engineer or the state board of control in an appropriate place in the county in which the proposed well or requested change is to be located. In making any determination required by this section, the state engineer may rely upon records and information on file in his office or in the office of the board of control. In the event a hearing is held he shall make known to the parties the records and information upon which he relies at least fifteen (15) days before the hearing. The state engineer, for good cause, may impose costs of the hearing proportionally upon the applicant or petitioner and the objectors. A decision by the state engineer under this subsection may be appealed by the applicant or petitioner to the board of control within thirty (30) days of the date of receipt of notice of the decision. Upon appeal the board of control shall conduct a contested case hearing in accordance with its rules and regulations and the Wyoming Administrative Procedure Act. An appeal from an order of the board of control may be taken to the district court pursuant to the Wyoming Administrative Procedure Act.

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

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk