

SENATE FILE NO. SF0051

Water development-amendments.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to water development; providing amendments
 2 to the water development program; providing for
 3 contingencies; clarifying authority of the Wyoming water
 4 development commission regarding specified interstate
 5 projects and programs; and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 41-2-118(a)(xiii), (xiv) and by
 10 creating a new paragraph (xv), 99-3-1106(a)(intro), (iii),
 11 (vii), (b)(intro), (iii), (iv) and (vii) and
 12 99-3-1304(j)(intro), (iii) and (vii) are amended to read:

13

14 **41-2-118. Powers, duties, salaries and expenses of**
 15 **commission.**

16

1 (a) The commission shall:

2

3 (xiii) Represent or advocate the state's
4 interests in negotiations and construction of water
5 projects assigned by the legislature or the governor; ~~and~~

6

7 (xiv) Have authority to temporarily defer the
8 principal amount due on debt service payments for money
9 loaned to an irrigation district, watershed improvement
10 district, conservation district or a conservancy district
11 for construction of water development projects whenever the
12 governor has declared that a drought emergency exists
13 within the affected district's service area. The district
14 shall be eligible for the temporary deferral of the
15 principal amount due, provided the interest payments on the
16 remaining principal amount are paid and current. The
17 commission shall amend the amortization schedule to reflect
18 the length of time from the date the affected district
19 seeks the temporary deferral to the date the governor
20 declares the emergency drought condition no longer exists; ~~and~~
21 and

22

1 (xv) With the approval of the governor, have the
 2 authority to enter into contracts and agreements with the
 3 United States of America or its duly authorized
 4 representative agency to accept federal funds through
 5 grants or matching funds or from other sources for project
 6 costs pertaining to the utilization of Wyoming's water
 7 resources.

8

9 **99-3-1106. Sponsor's contingency funds.**

10

11 There are created the following sponsor's inflation
 12 contingency funds:

13

14 (a) Project - Sponsor's ~~Inflation~~Contingency Fund -
 15 New Development:

16

17 (iii) Project description: The establishment of
 18 a fund to provide supplemental funding for sponsors'
 19 existing Level III new development construction projects
 20 where construction budgets have been rendered insufficient
 21 due to inflation, ~~and the rapid~~ or an unexpected increase
 22 in material cost, change in materials or increase in the

1 quantities of materials necessary to complete the final
2 project design;

3
4 (vii) Appropriation: There is appropriated from
5 water development account I to the commission two million
6 dollars (\$2,000,000.00) or as much thereof as is necessary
7 to carry out the purpose of this subsection. Unexpended
8 funds appropriated under this subsection shall revert to
9 water development account I on July 1, ~~2015~~2017; and

10
11 (b) Project - Sponsor's ~~Inflation~~Contingency Fund -
12 Rehabilitation:

13
14 (iii) Project description: The establishment of
15 a fund to provide supplemental funding for sponsors'
16 existing Level III rehabilitation construction projects
17 where construction budgets have been rendered insufficient
18 due to inflation, ~~and the rapid~~or an unexpected increase
19 in material cost, change in materials or increase in the
20 quantities of materials necessary to complete the final
21 project design;

22

1 (iv) Total project budget: ~~Eight hundred~~
 2 ~~thousand dollars (\$800,000.00)~~ One million three hundred
 3 thousand dollars (\$1,300,000.00);

4
 5 (vii) Appropriation: There is appropriated from
 6 water development account II to the commission ~~eight~~
 7 ~~hundred thousand dollars (\$800,000.00)~~ one million three
 8 hundred thousand dollars (\$1,300,000.00) or as much thereof
 9 as is necessary to carry out the purpose of this
 10 subsection. Unexpended funds appropriated under this
 11 subsection shall revert to water development account II on
 12 July 1, ~~2015-2017~~; and

13
 14 **99-3-1304. Level III construction projects -**
 15 **rehabilitation.**

16
 17 (j) Project Sponsor's ~~Inflation~~ Contingency Fund -
 18 Rehabilitation:

19
 20 (iii) Project description: The establishment of
 21 a fund to provide supplemental funding for sponsors'
 22 existing Level III rehabilitation construction projects
 23 where construction budgets have been rendered insufficient

1 due to inflation, ~~and the rapid~~ or an unexpected increase
2 in material cost, change in materials or increase in the
3 quantities of materials necessary to complete the final
4 project design;

5
6 (vii) Appropriation: There is appropriated from
7 water development account II to the commission five hundred
8 thousand dollars (\$500,000.00) or as much thereof as is
9 necessary to carry out the purpose of this subsection.
10 Unexpended funds appropriated under this subsection shall
11 revert to water development account ~~I-II~~ on July 1, ~~2013~~
12 2017;

13
14 **Section 2.** Upper Colorado River Basin Fund Memorandum
15 of Agreement.

16
17 (a) Pursuant to a Memorandum of Agreement (MOA)
18 entered into on January 24, 2011, by and among the states
19 of Colorado, New Mexico, Utah and Wyoming; the Colorado
20 River Energy Distributors Association, Inc. (CREDA); the
21 Department of the Interior, Bureau of Reclamation; and the
22 Department of Energy, Western Area Power Administration,
23 the state of Wyoming has certain specified rights to apply

1 for and recommend the expenditure of a percentage of
2 collected revenues defined under section 5(e) of the
3 Colorado River Storage Project Act, codified beginning at
4 43 U.S.C. § 620, as amended and supplemented, identified in
5 the MOA as CRSPA. The MOA will expire on September 30,
6 2025, unless modified or extended.

7

8 (b) The MOA provides that each signatory state,
9 including the state of Wyoming, may apply for a percentage
10 of collected revenues, accounted for under the terms of the
11 MOA, as funding assistance for qualifying projects or
12 activities within the Upper Colorado River Basin.
13 Qualifying projects or activities are those which further
14 the purposes of CRSPA, as amended and supplemented, are
15 within the Bureau of Reclamation's authorities and are
16 recommended by the signatory states and CREDA. It is the
17 responsibility of each signatory state to prioritize and
18 recommend proposed projects or activities within the state
19 for participation under the MOA.

20

21 (c) The Wyoming water development commission shall
22 evaluate, prioritize and recommend to the Bureau of

1 Reclamation proposed qualifying projects within the state
2 of Wyoming for participation under the MOA.

3

4 (d) The commission shall establish criteria and
5 administrative procedures for the evaluation,
6 prioritization and recommendation of proposed qualifying
7 projects within the state of Wyoming for participation
8 under the MOA.

9

10 (e) The establishment of criteria and administrative
11 procedures for the evaluation, prioritization and
12 recommendation of qualifying projects under this section,
13 and the decisions of the commission relating to the
14 evaluation, prioritization and recommendation to the Bureau
15 of Reclamation of qualifying projects for participation
16 under the MOA, are specifically exempt from the provisions
17 of the Wyoming Administrative Procedure Act including
18 judicial review under W.S. 16-3-114 and 16-3-115.

19

20 (f) The authority granted to the commission under
21 this section and any criteria or administrative procedures
22 established pursuant to this section shall be effective
23 only so long as the MOA is in effect or collected revenues

1 remain available to fund qualifying projects, whichever is
2 later.

3

4 **Section 3.** BSP - Colorado River Basin States Salinity
5 Control Program.

6

7 (a) Congress created the Colorado River Basin
8 Salinity Control Program (Program) in 1974 with the
9 enactment of the Colorado River Basin Salinity Control Act,
10 Public Law 93-320. The Program is a cooperative effort
11 among water users in the Colorado River Basin, the seven
12 Colorado River Basin states, the USDA - Natural Resources
13 Conservation Service (NRCS), the Bureau of Reclamation and
14 the Bureau of Land Management to reduce the amount of salt
15 in the Colorado River and its impacts on water users.

16

17 (b) Section 205 of the Colorado River Basin Salinity
18 Control Act directs the Bureau of Reclamation to expend
19 funds from the Upper Colorado River Basin Fund and the
20 Lower Colorado River Basin Development Fund. The Basin
21 States Program (BSP) was created with the amendment of the
22 original 1974 Act and provides that cost share obligations
23 be met through an up-front cost share. Expenditures from

1 the BSP may be used to cost share in the implementation of
2 salinity control measures and the Bureau of Reclamation has
3 determined Wyoming, through the Wyoming Water Development
4 Commission, to be an appropriate partner in the BSP.

5

6 (c) Program project sponsors: Eligible public
7 entities in the Green River and Little Snake River
8 drainages in Wyoming; eligible private entities located in
9 the Green River or Little Snake River drainages in Wyoming
10 that qualify for on-farm federal assistance.

11

12 (d) Program purpose: Reduce salinity in the surface
13 waters of the Colorado River and its tributaries in
14 Wyoming.

15

16 (e) Project description: Cost effectively reduce
17 salinity and conduct planning studies for salinity control
18 activities.

19

20 (f) Program budget: Two million eight hundred
21 thousand dollars (\$2,800,000.00) total grant budget
22 authorizing the Bureau of Reclamation to provide
23 incremental grants for the Program.

1

2 (g) State appropriation: none.

3

4 (h) Special conditions:

5

6 (i) The Wyoming water development commission
7 shall accept, evaluate and rank proposed qualifying
8 projects within the state of Wyoming for participation in
9 the Program;

10

11 (ii) The commission shall recommend its ranking
12 of proposed qualifying projects to the Bureau of
13 Reclamation. The Bureau of Reclamation retains final
14 authority on all funding decisions;

15

16 (iii) With the concurrence of the Bureau of
17 Reclamation, the commission may award grants to eligible
18 project sponsors;

19

20 (iv) Project sponsors shall substantiate the
21 public benefit that will accrue due to participation in the
22 Program;

23

1 (v) The commission shall establish criteria and
2 administrative procedures for the acceptance, evaluation
3 and ranking of qualifying projects within the state of
4 Wyoming for participation in the Program;

5
6 (vi) The establishment of criteria and
7 administrative procedures for the acceptance, evaluation
8 and ranking of qualifying projects under this section, and
9 the decisions of the commission relating to the acceptance,
10 evaluation and ranking of qualifying projects for
11 participation under the Colorado River Basin States
12 Program, are specifically exempt from the provisions of the
13 Wyoming Administrative Procedure Act including judicial
14 review under W.S. 16-3-114 and 16-3-115;

15
16 (vii) The authority granted to the commission
17 under this section, and any criteria or administrative
18 procedures established pursuant to this section, shall be
19 effective only so long as the Colorado River Basin States
20 Program is in operation or there are still Program grant
21 dollars to be spent, whichever is later.

22

1 **Section 4.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)