

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.

4

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(a)
8 and (b) are amended to read:

9

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;

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

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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.

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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. The state engineer shall not grant any permits to
20 appropriate or store water for instream flows prior to the
21 game and fish commission's public meeting, receipt of
22 public comments and the public meeting summary required by
23 this subsection and prior to the completion of the study

1 provided by W.S. 41-3-1004 or prior to the hearing required
2 by W.S. 41-3-1006. Fees and costs of the commission
3 associated with permit applications and adjudication of
4 water rights shall be borne by the game and fish
5 commission.

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7 **41-3-1004. Water development commission to determine**
8 **storage feasibility; report to the game and fish commission**
9 **and the legislature.**

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11 (a) ~~Immediately after permits have been applied for~~
12 After receipt of written comments and the public meeting
13 summary under W.S. 41-3-1003(c), the water development
14 commission shall determine the feasibility of providing
15 instream flows for the recommended segments of streams from
16 unappropriated direct flows or from existing storage
17 facilities or from new facilities. The feasibility study
18 shall include a determination of water necessary to
19 maintain or improve existing fisheries for water rights
20 under W.S. 41-3-1001(b) or of water necessary to provide
21 fisheries for water rights under W.S. 41-3-1001(a). The
22 feasibility study shall also include the availability of
23 storage sites, the estimated cost of providing any required

1 storage and such other findings and conclusions as the
2 water development commission deems appropriate. The cost of
3 any consultant and any associated costs that the water
4 development commission determines are necessary to complete
5 a feasibility study under this section shall be borne by
6 the game and fish commission. The water development
7 commission shall consult with the game and fish commission
8 prior to entering into any contract related to a
9 feasibility study under this section.

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11 (b) The water development commission shall ~~make a~~
12 report its findings to the game and fish commission and to
13 the legislature ~~outlining their findings during its next~~
14 general session.

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

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(END)