

SENATE FILE NO. SF0066

Water exchange amendments.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to water; clarifying that water rights are
2 not lost in an exchange as specified; clarifying the
3 applicable source of water in an exchange; and providing
4 for an effective date.

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

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8 **Section 1.** W.S. 41-3-106(a), (d) and (e) is amended
9 to read:

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11 **41-3-106. Procedure to exchange water; delivery of**
12 **water under exchanges; approval of state engineer;**
13 **enforcement of exchanges.**

14

15 (a) Any appropriator owning a valid water right in
16 and to the use of the ground, surface or reservoir waters

1 of the state, where the source of the appropriation is at
2 times insufficient to fully satisfy such appropriation, or
3 better conservation and utilization of the state's water
4 can be accomplished, or the appropriator can develop
5 appropriable water but cannot economically convey it to its
6 point of use, may petition the state engineer for an order
7 allowing an exchange and the use of stored, direct flow, or
8 ground water from another source or from another
9 appropriation from the same source. If such an appropriator
10 arranges by agreement with another appropriator for the
11 delivery and use of either stored, direct flow, or ground
12 water, ~~from another source,~~ the exchange agreement shall
13 accompany the petition.

14

15 (d) It is the policy of the state to encourage
16 exchanges. The state engineer shall not issue an exchange
17 order if ~~it appears that the proposed exchange would~~
18 ~~adversely affect the rights of~~ other appropriators will be
19 injuriously affected thereby, or if the proposed exchange
20 would, in the opinion of the state engineer, be too
21 difficult to administer or would be adverse to the public
22 interest. The state engineer shall cause to be published,
23 at the petitioner's expense, once a week for at least two

1 (2) consecutive weeks in a newspaper of general circulation
2 in each county where the water rights subject to the
3 exchange petition are located, a notice of the filing of
4 the exchange petition which identifies the place where the
5 exchange petition is available for public inspection. The
6 last date of publication shall occur not less than thirty
7 (30) days before the state engineer enters the order to
8 grant the exchange. All exchanges are subject to the
9 requirements of beneficial use and equality of water
10 exchanged, and no exchange will be allowed unless a
11 sufficient quantity of makeup water is introduced to
12 replace the water diverted and withdrawn under the
13 exchange. In making the determination of equality and
14 sufficiency of the makeup water introduced, the state
15 engineer may consider relative consumptive uses and
16 transmission losses.

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18 (e) Any water made available to an appropriator by
19 reason of any exchange agreement shall be delivered for the
20 use of the appropriator in accordance with the order
21 allowing the exchange, and its use is without prejudice to,
22 but in enjoyment of, the rights of all appropriators under
23 their original appropriations. No loss, abandonment or

1 impairment of any water rights involved in the exchange
2 shall occur or attach as a result of the exchange, except
3 as may be provided in the order allowing the exchange. Upon
4 termination of the exchange, the rights of all
5 appropriators under their original appropriations shall
6 automatically be reinvested with all the rights, privileges
7 and uses, and purposes theretofore held and enjoyed.

8

9 **Section 2.** This act is effective July 1, 2024.

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(END)