

SENATE FILE NO. SF0118

Eminent domain-water projects.

Sponsored by: Senator(s) Ide, French, Hicks, Pearson and
Steinmetz and Representative(s) Banks,
Johnson, Schmid, Webber, Wharff and Winter

A BILL

for

1 AN ACT relating to eminent domain; requiring the
2 legislature to approve the use of eminent domain for the
3 construction of water projects that utilize state funds as
4 specified; making conforming amendments; specifying
5 applicability; 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. 1-26-802, 1-26-803, 1-26-810(a)(iii),
10 1-26-815(a), 15-7-101(a)(ii) and (iii)(A), 35-3-110,
11 36-10-101, 41-2-124 by creating a new subsection (m),
12 41-3-102(a), 41-3-742(a)(iii), 41-3-906, 41-3-1013,
13 41-7-210(a)(iv)(E), 41-7-808, 41-8-113(a)(iii), 41-9-202
14 and 41-10-113(a)(xix) are amended to read:

15

1 **1-26-802. Proceedings by water companies and**
2 **incorporated cities or towns.**

3

4 Subject to the requirements of W.S. 41-2-124(m), any water
5 company or incorporated city or town of this state may
6 acquire by purchase, grant or condemnation any land, real
7 estate, claim, easement or right-of-way required for or
8 that may be affected by the construction, operation or
9 maintenance of any waterworks.

10

11 **1-26-803. Municipal streets and alleys; utility mains**
12 **or pipes; tax levy.**

13

14 Subject to the requirements of W.S. 41-2-124(m) if
15 applicable, any incorporated city or town in Wyoming may
16 use or authorize the use of its streets and alleys by
17 others, and may obtain by purchase, grant or condemnation
18 in the manner provided by law all necessary lands for the
19 construction, laying and operating of mains or pipes for
20 sewers, gas or water for the use of the cities and towns,
21 and for that purpose to have the power to levy a tax within
22 the constitutional limits upon all personal and real

1 property within the corporate limits of the cities and
2 towns.

3

4 **1-26-810. Powers of railroad companies relative to**
5 **condemnation generally.**

6

7 (a) Any railroad company organized under the laws of
8 this state, the laws of the United States or which has been
9 duly organized under the laws of any other state and has
10 filed copies of its articles of incorporation with the
11 secretary of state in this state as required by law is
12 authorized to:

13

14 (iii) Notwithstanding W.S. 41-2-124(m), acquire
15 a right to conduct water by aqueducts and to make
16 appropriate drains.

17

18 **1-26-815. Right of eminent domain granted; ways of**
19 **necessity for authorized businesses; purposes; extent.**

20

21 (a) Subject to the requirements of W.S. 41-2-124(m)
22 if applicable, any person, association, company or
23 corporation authorized to do business in this state may

1 appropriate by condemnation a way of necessity over, across
2 or on so much of the lands or real property of others as
3 necessary for the location, construction, maintenance and
4 use of reservoirs, drains, flumes, ditches including return
5 flow and wastewater ditches, underground water pipelines,
6 pumping stations and other necessary appurtenances, canals,
7 electric power transmission lines and distribution systems,
8 railroad trackage, sidings, spur tracks, tramways, roads or
9 mine truck haul roads required in the course of their
10 business for agricultural, mining, exploration drilling and
11 production of oil and gas, milling, electric power
12 transmission and distribution, domestic, municipal or
13 sanitary purposes, or for the transportation of coal from
14 any coal mine or railroad line or for the transportation of
15 oil and gas from any well.

16

17 **15-7-101. Purposes.**

18

19 (a) In addition to all other powers provided by law,
20 any city or town may make public improvements as follows
21 for which bonds may be issued to the contractor or be sold
22 as provided in this chapter to:

23

1 (ii) Establish, construct, purchase, extend,
2 maintain and regulate a system of water works, for the
3 purpose of supplying water for extinguishing fires and for
4 domestic, manufacturing and other purposes. To carry out
5 this power, or to prevent pollution or injury to the
6 streams, springs or source of supply of its water works,
7 ditches or reservoirs, any city or town may go beyond its
8 corporate limits and take, hold and acquire property by
9 purchase or otherwise and, subject to the requirements of
10 W.S. 41-2-124(m) if applicable, may take and condemn all
11 necessary land and property. Jurisdiction of a city or town
12 shall extend up and along the stream or source of supply
13 for the entire distance occupied by such water works,
14 ditches or reservoirs. Cities or towns may enact ordinances
15 and make all necessary rules and regulations for the
16 government and protection of their water works, ditches and
17 reservoirs, and fix water rates and provide for their
18 collection. All water rent collected except the amount
19 required to pay the expense of maintaining, extending and
20 improving the water works, shall become a part of the water
21 bond fund, and be applied only to the payment of the
22 principal and interest of the bonds issued for the

1 construction, purchase, maintaining or extension of the
2 water works;

3

4 (iii) Take any action necessary to establish,
5 purchase, extend, maintain and regulate a water system for
6 supplying water to and diverting surface water runoff from
7 its inhabitants and their property and for any other public
8 purposes, including:

9

10 (A) Condemnation of property, subject to
11 the requirements of W.S. 41-2-124(m) if applicable;

12

13 **35-3-110. Eminent domain; power conferred.**

14

15 Subject to the requirements of W.S. 41-2-124(m) if
16 applicable, such sanitary and improvement district may
17 acquire by purchase, condemnation or otherwise, real or
18 personal property, right-of-way, and privilege, within or
19 without its corporate limits, necessary for its corporate
20 purposes.

21

22 **36-10-101. Authority to acquire state lands;**
23 **reservation of mineral rights.**

1

2 Notwithstanding W.S. 41-2-124(m), the United States shall
3 be and is authorized to acquire by purchase or condemnation
4 or otherwise, any land in this state required for public
5 buildings, custom houses, arsenals, national cemeteries, or
6 other purposes essential to the national defense in
7 necessary use of said land by armed naval, air or land
8 forces, or land to be physically occupied by the Boysen
9 Dam, its reservoir, power plant and distribution systems,
10 or lands to be physically occupied by dams, reservoirs,
11 power plants and distribution systems in United States
12 reclamation service projects, and the state of Wyoming
13 hereby consents thereto, provided that the mineral content
14 of lands so acquired, if owners thereof so elect, shall be
15 reserved to such owners.

16

17 **41-2-124. Accounts created; unexpended balance.**

18

19 (m) Except as otherwise provided by law, when
20 appropriating funds for any project from the accounts
21 created by subsection (a) of this section and only after
22 receipt of a recommendation of the water development
23 commission, the legislature shall specify whether the power

1 of eminent domain may be utilized to complete a project for
2 which funds are appropriated. If it is determined after an
3 appropriation is made that the power of eminent domain is
4 needed to complete a project, the project's sponsor and the
5 water development commission shall notify the legislature
6 of the need for the use of eminent domain and the
7 appropriated funds shall not be expended for that project
8 unless the legislature authorizes the use through
9 legislation enacted during a subsequent legislative
10 session.

11
12 **41-3-102. Preferred uses; defined; order of**
13 **preference.**

14
15 (a) Water rights are hereby defined as follows
16 according to use: preferred uses shall include rights for
17 domestic and transportation purposes, steam power plants,
18 and industrial purposes; existing rights not preferred, may
19 be condemned to supply water for such preferred uses in
20 accordance with the provisions of the law relating to
21 condemnation of property for public and semi-public
22 purposes, including the requirements of W.S. 41-2-124(m),
23 except as hereinafter provided.

1

2 **41-3-742. Powers generally.**

3

4 (a) The board shall have power on behalf of said
5 districts:

6

7 (iii) Subject to the requirements of W.S.
8 41-2-124(m) if applicable, to have and to exercise the
9 power of eminent domain and in the manner provided by law
10 for the condemnation of private property for public use to
11 take any property necessary to the exercise of the powers
12 herein granted;

13

14 **41-3-906. Application; rights subject to preferences;**
15 **rights of municipal corporations.**

16

17 Rights to underground water shall be subject to the same
18 preferences as provided by law for surface waters, and
19 rights not preferred may be condemned and changed to a
20 preferred use in the manner provided by law for surface
21 waters subject to the requirements of W.S. 41-2-124(m).

22 Nothing herein contained shall be construed to impair the
23 rights of municipal corporations to acquire any underground

1 water or underground water rights for a necessary public
2 purpose by eminent domain or condemnation proceedings but
3 W.S. 41-2-124(m) shall remain applicable.
4

5 **41-3-1013. Condemnation for municipal water purposes.**
6

7 Notwithstanding W.S. 1-26-505 and subject to the
8 requirements of W.S. 41-2-124(m), a city or town may
9 condemn any portion of a water right authorized and
10 acquired under this act for municipal water purposes in the
11 manner provided by law.
12

13 **41-7-210. Court's order.**
14

15 (a) If the issues at this hearing are decided in
16 favor of the petitioners, the court shall make an order:
17

18 (iv) Establishing said district as a corporation
19 by the name proposed with powers:
20

21 (E) To exercise the power of eminent domain
22 under ~~chapter 316 (C.S. 1920)~~ W.S. 1-26-501 through
23 1-26-818, and all acts or parts of acts amendatory thereto;

1

2 **41-7-808. Powers; eminent domain; application of**
3 **provisions.**

4

5 All provisions of law now applicable to irrigation
6 districts, privately owned irrigation corporations, ditch
7 companies, or power districts or power corporations, as
8 regards the exercise of the power of eminent domain, the
9 use and occupation of state and other public lands and
10 highways, the appropriation, or other acquisition or use of
11 water, waterpower, water rights, or water diversion or
12 storage rights, for any of the purposes contemplated in
13 this act, the manner or method of construction and physical
14 operation of irrigation works, storage dams, distribution
15 systems, power plants, transmission lines and power
16 systems, as herein contemplated, shall be applicable as
17 nearly as may be, and insofar as not in conflict with the
18 provisions of this act, to districts organized under this
19 act in their exercise of the rights, powers and franchises
20 and in the performance of the duties conferred or imposed
21 upon them under the provisions of this act. In addition to
22 any other rights and powers hereinabove conferred upon any
23 district organized under the provisions of this act, such

1 district shall have and exercise the power of eminent
2 domain for the purposes and after the manner provided for
3 in ~~sections 38-401 to 38-416, inclusive, of chapter 38 [SS~~
4 ~~1-26-401, 1-26-403, 1-26-404]~~ and in chapter 122, Wyoming
5 ~~Revised Statutes, 1931,~~ W.S. 1-26-501 through 1-26-818 or
6 in any one (1) or more of said sections or other applicable
7 sections in said statutes made and provided. If any such
8 district shall condemn private property or interests
9 therein, the appraisalment shall include such amount of
10 damage as will accrue to the owner of the condemned
11 property through severance thereof from other property of
12 said owner, previously operated with that so condemned, as
13 a unit.

14

15 **41-8-113. Board of directors; powers generally.**

16

17 (a) Under the supervision of the board of
18 supervisors, the board of directors of a watershed
19 improvement district shall have power to:

20

21 (iii) Subject to the requirements of W.S.
22 41-2-124(m) if applicable, exercise the power of eminent

1 domain and in the manner provided by law for the
2 condemnation of private property for public use;

3

4 **41-9-202. Power of eminent domain.**

5

6 Any drainage district created and existing under W.S.
7 41-9-101 through 41-9-278 may, whenever it shall require a
8 way of necessity outside its boundaries for any of its work
9 or works theretofore authorized by the court, proceed to
10 procure the same by the exercise of the power of eminent
11 domain subject to the requirements of W.S. 41-2-124(m) if
12 applicable.

13

14 **41-10-113. Powers of district board.**

15

16 (a) For and on behalf of the district the board of
17 any district shall have the following powers:

18

19 (xix) Subject to the requirements of W.S.
20 41-2-124(m) if applicable, to have and exercise the power
21 of eminent domain and dominant eminent domain and in the
22 manner provided by law for the condemnation by a city of
23 private property for public use to take any property

1 necessary to the exercise of the powers granted, both
2 within and without the district;

3

4 **Section 2.** This act shall apply to all projects
5 receiving appropriations from water development accounts I
6 through III that are initiated on or after July 1, 2026.

7

8 **Section 3.** This act is effective July 1, 2026.

9

10

(END)