

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Disposition of water rights.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to the subdivision of land and water
2 rights; requiring certification from the state engineer or
3 state board of control on the disposition of water rights
4 when subdividing land; requiring notice of the proposed
5 disposition to other appropriators; making conforming
6 amendments; providing applicability; and providing for an
7 effective date.

8

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

10

11 **Section 1.** W.S. 15-1-415 by adding a new subsection
12 (e), 18-5-306(a)(xi) and W.S. 18-5-316(b) are amended to
13 read:

1

2 15-1-415. Additions to cities or towns by subdividing
3 landowners; plat requirements; filing and effect thereof;
4 controlling layout of streets.

5

6 (e) With respect to any water rights appurtenant to
7 lands to be subdivided in accordance with this section,
8 prior to certification and approval of the map or plat the
9 governing body shall require the owner to submit to the
10 governing body the following:

11

12 (i) The intended disposition of the water
13 rights, by:

14

15 (A) Written certification from the state
16 engineer or the state board of control that the owner
17 submitted to the state engineer or the state board of
18 control all documents necessary to voluntarily abandon the
19 water rights, cancel any unadjudicated permits or eliminate
20 applicable lands from any unadjudicated permits. The owner
21 shall notify any purchasers of this action;

22

1 (B) Written certification from the state
2 board of control that the owner submitted to the state
3 board of control all documents necessary to change the use
4 or place of use to provide for beneficial use of the water
5 rights outside the subdivision, which may include a
6 transfer to the city or town for use within its municipal
7 water service boundaries;

8
9 (C) A plan, accompanied by written
10 certification from the state engineer approving the plan,
11 for the distribution of the water rights appurtenant to the
12 land to be subdivided. The plan shall specify the
13 distribution of the water to the lots within the
14 subdivision and shall include written certification from
15 the state board of control that the owner submitted to the
16 state board of control all documents necessary for a change
17 of use, change of place of use or change in point of
18 diversion or means of conveyance in accordance with W.S.
19 41-3-103, 41-3-104 or 41-3-114; or

20
21 (D) Written certification from the state
22 board of control that it accepted an authorization to
23 detach water rights appurtenant to the lands to be

1 subdivided in accordance with rules and regulations
2 promulgated by the state board of control.

3
4 (ii) If the subdivision is located within lands,
5 served by or crossed by a ditch, irrigation company or
6 association or by an unorganized ditch, evidence that the
7 owner submitted the subdivision map or plat to the company,
8 association or remaining appropriators in the case of an
9 unorganized ditch for review and recommendation at least
10 sixty (60) days prior to the submittal of the map or plat
11 to the governing body;

12
13 (iii) Evidence that the owner will specifically
14 state on all offers and solicitations relative to the
15 subdivision the owner's intent to comply with this
16 paragraph and that the owner does not warrant to a
17 purchaser that the purchaser shall have any rights to the
18 natural flow of any stream within or adjacent to the
19 proposed subdivision. The owner shall further state that
20 Wyoming law does not recognize any riparian rights to the
21 continued natural flow of a stream or river for persons
22 living on the banks of the stream or river;

23

1 (iv) If the subdivision is located within the
2 boundaries of an irrigation district that is subject to the
3 provisions of title 41, chapter 7 of the Wyoming statutes,
4 the map or plat shall be accompanied by recommendations
5 from the irrigation district regarding any changes to the
6 attached water rights and the irrigation district's
7 easements. If there is a conflict with the irrigation
8 district's recommendations, the owner shall certify that it
9 met with and made a good faith effort to resolve any
10 conflicts with the irrigation district; and

11
12 (v) If the subdivision will create a significant
13 additional burden or risk of liability to the irrigation
14 district, company, association or remaining appropriators
15 including appropriators on an unorganized ditch, the owner
16 shall provide an adequate and responsible plan to reduce or
17 eliminate the additional burden or risk of liability.

18
19 **18-5-306. Minimum requirements for subdivision**
20 **permits.**

21
22 (a) The board shall require, and with respect to
23 paragraph (xii) of this subsection may require, the

1 following information to be submitted with each application
2 for a subdivision permit, provided the board may by rule
3 exempt from any of the following requirements of this
4 subsection or subsection (c) of this section ~~and may exempt~~
5 ~~from~~, including paragraph (xii) of this subsection, the
6 subdivision of one (1) or more units of land into not more
7 than a total of five (5) units of land:

8

9 (xi) With respect to any water rights
10 appurtenant to lands to be subdivided in accordance with
11 this chapter and prior to final approval of the application
12 for a subdivision permit the subdivider shall provide the
13 following:

14

15 (A) The intended disposition of the water
16 rights, by:

17

18 (I) ~~Evidence~~ Written certification
19 from the state engineer or the state board of control that
20 the subdivider ~~has~~ submitted to the state engineer or the
21 state board of control ~~the documentation~~ all documents
22 necessary to ~~relinquish~~ voluntarily abandon the water
23 rights, cancel any unadjudicated permits or eliminate

1 applicable lands from any unadjudicated permits. The
2 subdivider shall ~~and has notified~~ notify any purchasers ~~and~~
3 ~~the board~~ of this action;

4
5 (II) ~~Evidence~~ Written certification
6 from the state board of control that the subdivider ~~has~~
7 submitted to the ~~state engineer~~ state board of control ~~the~~
8 ~~documentation~~ all documents necessary to change the use, ~~or~~
9 place of use ~~or point of diversion~~ to provide for
10 beneficial use of the water rights outside the subdivision;
11 ~~or~~

12
13 (III) A plan, ~~a copy of which was~~
14 ~~submitted to and approved by the state engineer prior to~~
15 ~~the final approval of the subdivision application~~
16 accompanied by written certification from the state
17 engineer approving the plan, for the distribution of the
18 water rights appurtenant to the land to be subdivided. The
19 plan shall specify the distribution of the water to the
20 lots within the subdivision and shall include written
21 certification from the state board of control that the
22 subdivider submitted to the state board of control all
23 ~~appropriate applications for documents necessary to~~ change

1 ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of
2 diversion or means of conveyance in accordance with W.S.
3 41-3-103, 41-3-104 or 41-3-114 ~~;~~ or

4

5 (IV) Written certification from the
6 state board of control that it accepted an authorization to
7 detach water rights appurtenant to the lands to be
8 subdivided in accordance with rules and regulations
9 promulgated by the state board of control.

10 *****
11 *****

12 **STAFF COMMENT**
13 **Chapter 5, Section 6(d) of the Board of Control's rules and**
14 **regulations currently provide for an authorization to**
15 **detach water rights without specific statutory authority.**
16 **The addition of this subsection will create specific**
17 **statutory authority for an authorization to detach water**
18 **rights.**

19 *****
20 *****

21

22 (B) If the subdivision is located within
23 lands, served by or crossed by a ditch, irrigation company
24 or association or by an unorganized ditch, evidence that
25 the subdivider submitted the plan ~~has been submitted, to~~
26 the company, association or remaining appropriators in the
27 case of an unorganized ditch for review and recommendations
28 at least sixty (60) days prior to the submittal of the

1 application for the subdivision permit to the ~~company, or~~
2 ~~association, or the remaining appropriators in the case of~~
3 ~~an unorganized ditch for their review and recommendations~~
4 board;

5
6 (C) Evidence that the subdivider will
7 specifically state on all offers and solicitations relative
8 to the subdivision ~~his~~ the subdivider's intent to comply
9 with this paragraph and that the ~~seller~~ subdivider does not
10 warrant to a purchaser that ~~he~~ the purchaser shall have any
11 rights to the natural flow of any stream within or adjacent
12 to the proposed subdivision. ~~He~~ The subdivider shall
13 further state that ~~the~~ Wyoming law does not recognize any
14 riparian rights to the continued natural flow of a stream
15 or river for persons living on the banks of the stream or
16 river;

17
18 (D) If the subdivision is located within
19 the boundaries of an irrigation district that is subject to
20 the provisions of title 41, chapter 7 of the Wyoming
21 statutes, the application shall include ~~a review and~~
22 recommendations from the irrigation district regarding any
23 changes to the attached water rights and the irrigation

1 district's easements. If there is a conflict with the
2 irrigation district's recommendations, the applicant
3 subdivider shall certify that it ~~has~~ met with and made a
4 good faith effort to resolve any conflicts with the
5 irrigation district; and

6
7 (E) If the subdivision will create a
8 significant additional burden or risk of liability to the
9 irrigation district, company, association or remaining
10 appropriators including appropriators on an unorganized
11 ditch, the ~~applicant~~-subdivider shall provide an adequate
12 and responsible plan to reduce or eliminate the additional
13 burden or risk of liability.

14
15 **18-5-316. Requirements for large acreage subdivision**
16 **permits.**

17
18 (b) The board may require ~~any or all of, and with~~
19 respect to paragraph (ix) of this subsection shall require,
20 the following information to be submitted with an
21 application for a subdivision permit pursuant to this
22 section:

23

1 (ix) With respect to any water rights
2 appurtenant to lands to be subdivided in accordance with
3 this section and prior to final approval of the application
4 for a subdivision permit the subdivider shall provide the
5 following:

6
7 (A) The intended disposition of the water
8 rights by:

9
10 (I) ~~Evidence~~ Written certification
11 from the state board of control that the subdivider has
12 submitted to the ~~state engineer the documentation~~ state
13 board of control all documents necessary to relinquish
14 voluntarily abandon the water rights, cancel any
15 unadjudicated permits or eliminate applicable lands from
16 any unadjudicated permits. ~~and has notified~~ The subdivider
17 shall notify any purchasers ~~and the board~~ of this action;

18
19 (II) ~~Evidence~~ Written certification
20 from the state board of control that the subdivider has
21 submitted to the ~~state engineer the documentation~~ state
22 board of control all documents necessary to change the use,
23 or place of use ~~or point of diversion~~ to provide for

1 beneficial use of the water rights outside the subdivision;

2 ~~or~~

3

4 (III) A plan, ~~a copy of which was~~

5 ~~submitted to and approved by the state engineer prior to~~

6 ~~the final approval of the subdivision application~~

7 accompanied by written certification from the state

8 engineer approving the plan, for the distribution of the

9 water rights appurtenant to the land to be subdivided. The

10 plan shall specify the distribution of the water to the

11 lots within the subdivision and shall include written

12 certification from the state board of control that the

13 subdivider submitted to the state board of control all

14 ~~appropriate applications for~~ documents necessary to change

15 ~~of the~~ use, ~~change of~~ place of use or ~~change in~~ point of

16 diversion or means of conveyance in accordance with W.S.

17 41-3-103, 41-3-104 or 41-3-114. ; or

18

19 (IV) Written certification from the

20 state board of control that it accepted an authorization to

21 detach water rights appurtenant to the lands to be

22 subdivided in accordance with rules and regulations

23 promulgated by the state board of control.

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(B) If the subdivision is located within an irrigation district or within lands, served by a ditch, irrigation company or association or by an unorganized ditch, evidence that the subdivider submitted the plan ~~has been submitted~~ to the district board, company, or association, or ~~the~~ remaining appropriators in the case of an unorganized ditch for ~~their~~ review and recommendations at least sixty (60) days prior to the submittal of the application for the subdivision permit to the board; and

(C) Evidence that the subdivider will specifically state on all offers relative to the subdivision ~~his~~ the subdivider's intent to comply with this paragraph and that the ~~seller-subdivider~~ does not warrant to a purchaser that ~~he~~ the purchaser shall have any rights to the natural flow of any stream within or adjacent to the proposed subdivision. ~~He~~ The subdivider shall further state that ~~the~~ Wyoming law does not recognize any riparian rights to the continued natural flow of a stream or river for persons living on the banks of the stream or river.

1 **Section 2.** This act applies to subdivision
2 applications and related proceedings filed on and after
3 July 1, 2021.

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5 **Section 3.** This act is effective July 1, 2021.

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(END)