

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO.

Watershed improvement districts-eminent domain authority.

Sponsored by: Senator(s) Hicks

A BILL

for

1 AN ACT relating to water; repealing the ability of boards  
2 of directors of watershed improvement districts to utilize  
3 the power of eminent domain; making conforming amendments;  
4 specifying applicability; and providing for an effective  
5 date.

6

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

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9 **Section 1.** W.S. 41-8-102 and 41-8-119(a) are amended  
10 to read:

11

12 **41-8-102. Purposes.**

13

1 The purposes of this act are to provide for the prevention  
2 and control of erosion, floodwater and sediment damages,  
3 for agricultural uses, and the storage, conservation  
4 development, utilization and disposal of water, and thereby  
5 to preserve and protect land and water resources, and  
6 protect and promote the health, safety and general welfare  
7 of the people of this state. Recreational use may be  
8 included in conjunction with projects developed in  
9 compliance with the purposes of this act. ~~, but nothing in~~  
10 ~~this act shall be interpreted to give initial power of~~  
11 ~~condemnation for recreational purposes.~~ The watershed  
12 improvement district may enter into agreement with the  
13 owner for the maintenance of industrial development and  
14 domestic supply reservoirs.

15

16 **41-8-119. Appeal from approval of project or**  
17 **determination of benefits or assessments.**

18

19 (a) Any owner of land or person having an interest  
20 therein upon which an assessment is proposed to be levied  
21 may, within thirty (30) days from such order or resolution  
22 of the board of directors accepting the report of the  
23 appraisers, file with the clerk of the district court a

1 written notice making demand for trial by the court. The  
2 notice shall state definitely from what part of such order  
3 or resolution the appeal is taken and shall set forth any  
4 other objections of the appellant. In case more than one  
5 (1) appeal is taken, the court may, upon finding that the  
6 appeals may be consolidated without injury to the interests  
7 of anyone, consolidate and try the appeals together. Any  
8 hearing on appeal provided for herein in the district court  
9 shall be de novo, and the district court shall consider not  
10 only the question of procedure but also the merits of the  
11 point or points appealed from. ~~including but not limited~~  
12 ~~to eminent domain proceedings.~~ Any appeal from a decision  
13 of the district court shall follow the usual rules of civil  
14 procedure.

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16 **Section 2.** W.S. 41-8-113(a)(iii) is repealed.

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19 \*\*\*\*\*

20 STAFF COMMENT

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22 Repealing the above language may be contrary to the Wyoming  
23 Constitution. For instance, Article 1, Section 32 states  
24 "Private property shall not be taken for private use . . .  
25 except for . . . reservoirs, drains . . . or ditches on or  
26 across the lands of others for . . . domestic or sanitary  
27 purposes[.]" Furthermore, Article 13, Section 5 states the  
28 "legislature shall provide by law for the exercise upon the

1 part of incorporated cities, towns and villages of the  
2 right of eminent domain for the purpose of acquiring from  
3 prior appropriators upon the payment of just compensation,  
4 such water as may be necessary for the well being thereof  
5 and for domestic uses."

6  
7 This bill draft may also possibly impair contracts,  
8 contrary to Article 1, Section 35 of the Wyoming  
9 Constitution, which states that "No ex post facto law, nor  
10 any law impairing the obligation of contracts, shall ever  
11 be made." For instance, a water improvement district may  
12 have already entered into a contract at the time this  
13 legislation is enacted where the contract is contingent on  
14 the ability to condemn private property.

15  
16 There may also be issues under the Equal Protection Clause  
17 of the United States Constitution. The Legislature would  
18 essentially be treating watershed improvement districts  
19 differently from other special districts that have the  
20 power of eminent domain.

21  
22 The Committee may wish to consider amending the above  
23 statutory language rather than repealing it entirely. The  
24 Committee may also wish to consider proposing  
25 constitutional amendments.

26  
27 The repealed language is below for the Committee's  
28 reference:

29  
30 41-8-113. Board of directors; powers generally.

31  
32 (a) Under the supervision of the board of  
33 supervisors, the board of directors of a watershed  
34 improvement district shall have power to:

35  
36 ~~(iii) Exercise the power of eminent domain and~~  
37 ~~in the manner provided by law for the condemnation of~~  
38 ~~private property for public use;~~

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40 \*\*\*\*\*

41 \*\*\*\*\*

1           **Section 3.** This act shall not apply to any  
2 condemnation action filed before July 1, 2026.

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4           **Section 4.** This act is effective July 1, 2026.

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6 ( END )