

SENATE FILE NO. SF0056

Temporary water use-municipalities.

Sponsored by: Select Water Committee

A BILL

for

1 AN ACT relating to water; providing for a municipality to
2 temporarily use stored water as specified; providing a
3 sunset date; requiring a report; and providing for an
4 effective date.

5

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

7

8 **Section 1.** W.S. 41-3-110 by creating a new subsection
9 (e) is amended to read:

10

11 **41-3-110. Right to acquire temporary water rights for**
12 **highway or railroad roadbed construction or repair;**
13 **application; restrictions; fee.**

14

15 (e) Notwithstanding the requirements of W.S.
16 41-3-101, an incorporated municipality which is the owner
17 of any adjudicated or valid unadjudicated water storage

1 right, may apply to the state engineer under subsection (b)
2 of this section for the release and temporary use of water
3 stored under the right for the purpose of nonconsumptive
4 use. The state engineer may approve the application for
5 nonconsumptive temporary use if the following conditions
6 are met:

7
8 (i) Upon receipt of an application for use of
9 water under this subsection, the state engineer shall
10 determine the feasibility of providing flow and impacts on
11 the hydrology of the stream segment and any other findings
12 and conclusions as he deems appropriate. For those
13 applications where the nonconsumptive use is for instream
14 flow purposes the flow shall be the minimum amount
15 necessary to maintain or improve existing fisheries;

16
17 (ii) The nonconsumptive use occurs within a
18 natural stream channel through a stream segment limited as
19 follows:

20
21 (A) From a point upstream of the applying
22 municipality where the municipal boundary intersects the
23 stream to a point downstream from the departure of the

1 stream from the municipal boundary designated by the state
2 engineer as optimum for his office's administration;

3
4 (B) The downstream limit shall not exceed
5 one (1) mile from the municipal boundary.

6
7 (iii) No other owner of an adjudicated or valid
8 unadjudicated water right with a point of diversion located
9 downstream from the stream segment under consideration by
10 the state engineer for the temporary nonconsumptive use is
11 willing, at no cost to the owner of the water right, to
12 beneficially use all of the released storage water according
13 to the conditions set forth in the owner's existing
14 downstream water right;

15
16 (iv) As evidence of meeting the requirements of
17 paragraph (ii) of this subsection, the municipality applying
18 for the temporary nonconsumptive use shall publish, at the
19 applicant's expense, for three (3) consecutive weeks in a
20 newspaper of general circulation in the county where the
21 temporary transfer is to occur, a notice specifying the
22 description of the stream segment, the volume, rate and
23 timing of the municipal storage release that would be

1 available for beneficial use, at no cost, to a downstream
2 owner of an adjudicated or valid unadjudicated water right;

3
4 (v) The state engineer determines that a
5 temporary change of use under this subsection will not
6 injure any other appropriator of the state's water;

7
8 (vi) This subsection is repealed effective July
9 1, 2011.

10
11 **Section 2.** The state engineer, in conjunction with the
12 Wyoming water development office, shall report to the
13 governor and the select water committee on the potential
14 impact of this act on existing and future water storage in
15 Wyoming. The report shall be filed no later than October 1,
16 2006 and shall include any recommendations for statutory
17 change.

18
19 **Section 3.** This act is effective immediately upon
20 completion of all acts necessary for a bill to become law
21 as provided by Article 4, Section 8 of the Wyoming
22 Constitution.

23
24 (END)