

## CHAPTER 52

Original House Bill No. 111

### WATER DEVELOPMENT PROGRAM

AN ACT to create W.S. 41-2-901; and to amend W.S. 41-2-121 by creating a new subsection (c), Chapter 36, 1982 Wyoming Session Laws, Section 1 and Chapter 60, 1982 Wyoming Session Laws, Section 3(c) introductory paragraph and (vi), (g) introductory paragraph and (vi), (k)(iv), (m)(v), Section 4(d)(x), (f)(vi), (n)(iv) and (q) introductory paragraph and (v), Section 5(c)(vi), (d)(iv)(C) and by creating new subparagraphs (D) and (E) and (vi) and by creating a new paragraph (vii) and (q)(iii) and Section 11 and by creating new Sections 16 and 17, as amended by Chapter 166, Section 2, 1983 Wyoming Session Laws, relating to authorization of water projects; authorizing studies of specified water projects; amending selected provisions of specified water projects which have been previously approved; providing unexpended funds for projects shall revert to the water development account on July 1 in the year in which the final project report is due; appropriating money to the attorney general's office from the water development account to purchase, on such terms and conditions as approved by the governor on the advice of the attorney general and special counsel, permits and applications to appropriate surface water, together with technical data, drawings, reports, studies and proprietary information relating thereto, for the development by the state of Wyoming of a water project in the Little Big Horn River drainage; authorizing the state to take an option on water permits and applications and technical data; requiring the governor to approve the option agreement; requiring a public hearing prior to approval of the option agreement; requiring the attorney general to undertake a technical evaluation of permits and applications and technical data; providing that the governor may exercise the option upon accomplishment of an equitable apportionment of the Little Big Horn River; providing that prior to exercising the option the governor shall direct the attorney general to conduct an accounting audit of the optionee and cause to be held a public hearing at which time the terms and conditions of the exercise of the option shall be set forth; providing that the state shall set forth the purposes for which water will be put to beneficial use; appropriating \$300,000.00 to the attorney general's office from the water development account for the purposes of undertaking a technical evaluation of water projects in the Little Big Horn drainage, conducting an accounting audit, hiring legal and engineering consultants and continuing stream gauging and other technical activities; authorizing the commission to begin Level II feasibility studies on projects authorized at Level I under certain conditions and with select water committee review; requiring the commission to submit its annual recommendations to the select water committee; providing for disclosure of certain interests by members of the water development commission; providing an appropriation; clarifying the disposition of a prior appropriation; and providing for an effective date.

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

**Section 1.** W.S. 41-2-901 is created to read:

**41-2-901. Appropriation to acquire permits and data by the state of Wyoming for the Little Big Horn River.**

(a) There is hereby appropriated to the attorney general's office from the water development account not to exceed three million dollars (\$3,000,000.00) for the purpose of purchasing, by the state of Wyoming as set forth in subsection (b) of this section, on such terms and conditions as approved by the governor on the advice of the attorney general and special counsel, permits and applications to appropriate surface water, together with all technical data, drawings, reports, studies and proprietary information relating thereto, for the development by the state of Wyoming of a water project on the Little Big Horn River.

(b) The state may take an option on the water permits and applications, together with all technical data, drawings, reports, studies and proprietary information relating thereto, for an amount not to exceed five hundred thousand dollars (\$500,000.00). The option agreement shall include terms, conditions and the purchase price, not to exceed three million dollars (\$3,000,000.00), of any water rights and shall be approved by the governor on the advice of the attorney general and special counsel. In making his decision regarding the agreement, the governor shall consider the testimony presented at the hearing required under this subsection. Prior to the approval of the option agreement, the attorney general and special counsel shall:

(i) Undertake a technical evaluation of all permits and applications to appropriate surface water together with technical data, drawings, reports, studies and proprietary information of water projects in the Little Big Horn River drainage in Wyoming;

(ii) Hold a public hearing in Sheridan county and present a preferred development plan for the drainage.

(c) The governor may not exercise the option until the accomplishment of an equitable apportionment of the Little Big Horn River system, whether by negotiation or litigation.

(d) Prior to the exercise of the option, the governor shall:

(i) Direct the attorney general to conduct an accounting audit of the books, records and accounts of the optionee;

(ii) Cause a public hearing to be held in Sheridan County at which time the terms and conditions for the exercise of the option shall be set forth. The state shall also set forth the purposes and demonstrated needs for which the water will be put to beneficial use;

(iii) Consider the testimony presented at the hearing required under this subsection in making his decision regarding the exercise of the option.

**Section 2.** W.S. 41-2-121 by creating a new subsection (c), Chapter 36, 1982 Wyoming Session Laws, Section 1, and Chapter 60, 1982 Wyoming Session Laws, Section 3(c) introductory paragraph and (vi), (g) introductory paragraph and (vi) and (k)(iv), (m)(v), Section 4(d)(x), (f)(vi), (n)(iv) and (q) introductory paragraph and (v), Section 5(c)(vi), (d)(iv)(C) and by creating new subparagraphs (D) and (E) and (vi) and by creating a new paragraph (vii) and (q)(iii) and Section 11 and by creating new Sections 16 and 17, as amended by Chapter 166, Section 2, 1983 Wyoming Session Laws, are amended to read:

**41-2-121. Criteria for water development projects; rehabilitation projects; Department of Economic Planning and Development to study; disclosure of personal interests by commission.**

(c) Within sixty (60) days after the effective date of this subsection or within sixty (60) days following appointment and annually on or before January 1, each member of the commission shall file written disclosures relative to all interests held by the member or the member's spouse, including interests in partnerships and corporations, with the secretary of state, of

(i) Any water rights, permits or applications held, whether for direct flow, reservoirs or underground water;

(ii) Any interests in engineering or construction firms which engage in designing or constructing water projects.

Section 1. One hundred fourteen million six hundred thousand dollars (\$114,600,000.00) is appropriated from the general fund to be expended for water development and rehabilitation projects specifically authorized by the legislature upon recommendations submitted by the water development commission. The appropriation shall not lapse at the end of any fiscal year.

Section 3. *Level I Reconnaissance Studies.* The water development commission is authorized and directed to conduct the following reconnaissance studies and to spend as much of the appropriation therefore as is reasonably necessary:

(c) *Northeast Wyoming Comprehensive Water Development Plan.* Not to exceed one hundred thousand dollars (\$100,000.00) from the water development account to locate water supplies to alleviate stock water shortages in drought stricken counties and to initiate a comprehensive water resources plan for the development of all the available waters in the area:

(vi) The final Level I report on the Northeast Wyoming Comprehensive Development Plan project shall be presented to the 1985 legislature.

(g) *Powder River.* Not to exceed five hundred thousand dollars (\$500,000.00) from the water development account for the study and formulation of a Powder River basin development plan:

(vi) The final Level I report on the Powder River project shall be presented to the 1985 legislature, with a yearly progress report submitted to the legislature in the interim.

(k) *Cities of Rock Springs and Green River.* Not to exceed sixty thousand dollars (\$60,000.00) from the water development account to locate and evaluate supplemental water supplies for the cities of Rock Springs and Green River:

(iv) The final Level I report on the cities of Rock Springs-Green River project shall be presented to the 1985 legislature.

(m) *Tongue River*. Not to exceed two hundred fifty thousand dollars (\$250,000.00) to conduct a basin-wide water development plan for the Tongue River basin:

(v) The final Level I report on the project shall be presented to the 1985 legislature upon completion of the Level I report and the public meetings required by W.S. 41-2-114(a), the water development commission may use the unexpended balance of the funds to begin a Level II feasibility study of the project.

Section 4. *Level II Feasibility Studies*. The water development commission is authorized and directed to conduct the following feasibility studies and to spend so much of the appropriation therefore as is reasonably necessary.

(d) *Upper Green River*. Not to exceed five hundred thousand dollars (\$500,000.00) from the water development account for the study and formulation of an Upper Green River development plan:

(x) The final Level II report on the Upper Green River project shall be presented to the 1985 legislature, with a yearly progress report submitted to the legislature in the interim. In addition, an interim report on initial findings regarding paragraphs (d)(i), (ii) and (iii) of this section shall be made available to the 1983 legislature.

(f) *Casper Aquifer*. Not to exceed five hundred fifty thousand dollars (\$550,000.00) from the water development account, fifty thousand dollars (\$50,000.00) of which is to complete a study of the Casper aquifer, and five hundred thousand dollars (\$500,000.00) of which is to drill two (2) test wells:

(vi) The final Level II report on the Casper aquifer project shall be presented to the 1985 legislature.

(n) *Cody Canal/Lakeview Conveyance System*. Not to exceed one hundred twenty-five thousand dollars (\$125,000.00) from the water development account to facilitate a water exchange between the Lakeview Irrigation District and the Cody Canal Irrigation District:

(iv) The final Level II report on the Cody Canal-Lakeview Conveyance System shall be presented to the 1985 legislature.

(q) *Kemmerer*. Not to exceed three hundred thousand dollars (\$300,000.00) from the water development account to prepare and conduct negotiations with Utah Power and Light Company regarding a municipal water supply from Viva Naughton Reservoir and to evaluate project feasibility:

(v) The final Level II report on the Kemmerer project shall be presented to the 1985 legislature.

Section 5. *Level III Development Plans.* The water development commission is authorized and directed to prepare the following development plans and to spend so much of the appropriation therefore as is reasonably necessary.

(c) *Corn Creek.* Not to exceed one hundred twenty thousand dollars (\$120,000.00) from the water development account for the Corn Creek project to develop about 15,000 acres of land in Goshen County for irrigation;

(vi) The final Level III report on the Corn Creek project shall be presented to the 1985 legislature, with a yearly progress report submitted to the legislature in the interim.

(d) *Little Snake River Water Management Project.* Not to exceed twenty million dollars (\$20,000,000.00) from the water development account for the Little Snake River water management project to develop municipal, agricultural, industrial, and water for miscellaneous uses, including flood control:

(iv) The project consists of various alternatives:

(C) An enlargement to the existing Seminoe Reservoir Dam of seventeen (17) feet, creating additional storage capacity for approximately three hundred eighty-nine thousand five hundred (389,500) acre-feet or alternate Platte River storage;

(D) A conveyance pipeline from Rob Roy Reservoir to Lake Owen and from Lake Owen to the Crow Creek drainage;

(E) Groundwater shall not be considered an alternative to Stage III water supply;

(F) At least ten thousand (10,000) acre-feet of storage shall be provided for use in the Savery Creek drainage and fifty thousand (50,000) acre-feet of storage shall be provided for use in the Little Snake River drainage.

(vi) The final Level III report on the Little Snake River water management project shall be presented to the 1986 legislature;

(vii) The Wyoming water development commission shall present to the 1985 legislature a report recommending the project configuration, a schedule for implementing the project and project components, and estimated construction costs of the project and project components. The commission shall appoint a project manager for this project. The Wyoming water development commission shall contract with the North Platte Joint Powers Board to develop a water needs study and an ability to pay analysis report and to perform other duties as deemed necessary by the commission. The joint powers board shall provide these reports to the water development commission by December 1, 1984.

(q) *Town of Encampment.* Not to exceed sixty thousand dollars (\$60,000.00) to prepare final plans and specifications for the improvement



of the intake works and other conveyance system features as outlined in the study authorized under Section 4(a), Chapter 60, 1982 Session Laws:

(iii) The department shall make the final Level III report to the 1985 session of the legislature and the department shall also provide a copy of the report to the commission.

Section 11. There is appropriated from the Wyoming water development account to the Wyoming water development commission, the sum of thirty million six hundred thirteen thousand five hundred dollars (\$30,613,500.00), or as much thereof as is necessary, to carry out the purposes of this act. The commission shall transfer to the department one hundred ninety-three thousand dollars (\$193,000.00) or as much thereof as is necessary, to carry out the responsibilities set forth in Section 5(m), (n), (o) and (q). One hundred thousand dollars (\$100,000.00) is appropriated from the general fund to the legislative service office to be expended as directed by the legislative select committee created under Section 15 of this act. Unexpended funds appropriated from the Wyoming water development account to the Wyoming water development commission or the department of economic planning and development for each water project under Sections 3, 4 and 5 of this act shall revert to the water development account on July 1 of the year in which the final report is due to the legislature for the project study or July 1, 1984, whichever is later.

Section 16.

(a) The water development commission may commence and contract for a Level II feasibility study of a project using unobligated funds authorized by law for a Level I reconnaissance study of the project if:

(i) The Level I study is substantially complete;

(ii) The due date for the Level I study report established by the legislature has not occurred;

(iii) The commission finds the Level II study to be in the best interest of the state;

(iv) The select water committee created under W.S. 28-11-101 reviews the commission request to proceed with the Level II study.

Section 17. All recommendations, including proposed legislation, from the water development commission to the legislature required by law regarding specific water projects shall be presented to the select water committee created by W.S. 28-11-101 not later than fifteen (15) days prior to commencement of the legislature to which the reports are due. The committee shall review and make recommendations to the legislature regarding commission recommendations and proposed legislation.

**Section 3. *Level I Reconnaissance Studies.*** The water development commission is authorized and directed to conduct the following reconnaissance studies as defined in W.S. 41-2-114, to spend as much of the appropriation therefore as is reasonably necessary and to submit a final report on the study to the legislature in the year prescribed:

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(a) *Middle Fork Rural Domestic Water Supply:*

- (i) LOCATION: Southern Johnson County;
- (ii) PURPOSE: To provide a domestic water supply to rural residences in the Kaycee area;
- (iii) APPROPRIATION: \$50,000;
- (iv) REPORT DUE: 1985.

(b) *Crow Creek Groundwater Recharge:*

- (i) LOCATION: Laramie County;
- (ii) PURPOSE: To reduce flood damage on Crow Creek and to evaluate the potential effect of a groundwater recharge program in Laramie County;
- (iii) APPROPRIATION: \$10,000;
- (iv) REPORT DUE: 1985.

(c) *Environmental and Archaeological Assessments:*

- (i) LOCATION: All Level I studies authorized in this section;
- (ii) PURPOSE: To develop necessary fish, wildlife, recreation and archaeological information regarding the project studies;
- (iii) APPROPRIATION: \$7,000;
- (iv) REPORT DUE: 1985.

**Section 4. Level II Feasibility Studies.** The water development commission is authorized and directed to conduct the following feasibility studies as defined in W.S. 41-2-114, to spend so much of the appropriation therefore as is reasonably necessary and to submit a final report on the study to the legislature in the year prescribed:

(a) *Smith's Fork Project, Bear River Drainage:*

- (i) LOCATION: Near Cokeville in Lincoln County;
- (ii) PURPOSE: To provide flood control for Cokeville, a supplemental irrigation water supply and hydroelectric power generation;
- (iii) APPROPRIATION: \$200,000;
- (iv) REPORT DUE: 1985.

(b) *Upper Bear — West Fork:*

- (i) LOCATION: Southwest Uinta County;
- (ii) PURPOSE: To provide supplemental irrigation water for approximately twenty thousand (20,000) acres and flood control for the City of Evanston;
- (iii) APPROPRIATION: \$150,000;
- (iv) REPORT DUE: 1985.

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(c) *Lovell Irrigation District Rehabilitation:*

- (i) LOCATION: Big Horn and Park counties;
- (ii) PURPOSE: To rehabilitate the canal and distribution system owned by the Lovell Irrigation District;
- (iii) APPROPRIATION: \$80,000;
- (iv) REPORT DUE: 1985.

(d) *Rawlins — Groundwater Investigation:*

- (i) LOCATION: Rawlins, Carbon County;
- (ii) PURPOSE: To evaluate the Nugget and Cloverly formations as groundwater sources for supplemental municipal water;
- (iii) APPROPRIATION: \$200,000;
- (iv) REPORT DUE: 1985.

(e) *Lake Hattie Rehabilitation:*

- (i) LOCATION: Albany County;
- (ii) PURPOSE: To rehabilitate the outlet works and canals to alleviate flooding problems and to improve operating efficiency of Lake Hattie reservoir;
- (iii) APPROPRIATION: \$25,000;
- (iv) REPORT DUE: 1985.

(f) *Big Horn Basin — Clarks Fork Master Plan:*

- (i) LOCATION: Park, Hot Springs, Washakie and Big Horn Counties;
- (ii) PURPOSE: To identify the most beneficial means for developing water resources in the Clarks Fork — Big Horn basin;
- (iii) APPROPRIATION: \$550,000;
- (iv) REPORT DUE: 1986.

(g) *Environmental and Archaeological Assessments:*

- (i) LOCATION: All Level II studies authorized in this section;
- (ii) PURPOSE: To develop necessary fish, wildlife, recreation and archaeologic information regarding the project studies;
- (iii) APPROPRIATION: \$124,000;
- (iv) REPORT DUE: Information regarding each study shall be submitted with the report on that study.

**Section 5. Level III Development Plans.** The water development commission is authorized and directed to prepare the following development plans as defined in W.S. 41-2-114, to spend so much of the appropriation therefore as is reasonably necessary and to submit a final report on the plans to the legislature in the year prescribed:



STATE OF WYOMING BUDGET SESSION 1984

(a) *Deer Creek:*

- (i) LOCATION: South of Glenrock, Converse County;
- (ii) PURPOSE: To provide flood control and additional water to municipalities along the North Platte River including Casper, Evansville, Douglas and Glenrock;
- (iii) APPROPRIATION: \$3,000,000;
- (iv) REPORT DUE: 1986 Legislature.

(b) *Gooseberry:*

- (i) LOCATION: Between Meeteetse and Worland in Park, Hot Springs and Washakie counties;
- (ii) PURPOSE: To provide supplemental irrigation water along Gooseberry Creek using water from within the Gooseberry Creek basin;
- (iii) APPROPRIATION: \$2,000,000, of which not more than \$500,000 shall be expended to determine the feasibility of reservoir sites within the Gooseberry Creek basin. The commission shall not spend any of the remainder of the appropriation until the commission has selected a feasible site and held public meetings in the basin of origin;
- (iv) REPORT DUE: 1986 Legislature.

(c) *Westside:*

- (i) LOCATION: Between Basin and Worland in Big Horn and Washakie counties;
- (ii) PURPOSE: To provide irrigation water to approximately nine thousand (9,000) acres;
- (iii) APPROPRIATION: \$1,500,000;
- (iv) REPORT DUE: 1986 Legislature.

(d) *Upper Bear River — Sulphur Creek:*

- (i) LOCATION: Uinta County;
- (ii) PURPOSE: To provide a supplemental municipal water supply for Evanston;
- (iii) APPROPRIATION: \$900,000;
- (iv) REPORT DUE: 1986.

(e) *Middle Fork Powder River Reservoir:*

- (i) LOCATION: Southern Powder River Basin in Johnson County;
- (ii) PURPOSE: To develop storage water for multipurpose use;
- (iii) APPROPRIATION: \$3,000,000, however expenditures made prior to the 1985 legislative session shall be limited to not more than \$300,000 for a Level II feasibility study plus the amount necessary to buy an option to acquire reservoir permits. The option agreement to acquire

the permits must be approved by the governor, and the attorney general shall conduct an accounting audit of the permit holders and cause a public hearing to be held on the terms and proposed conditions of the option to acquire the permits. The commission shall conduct public meetings in the Southern Powder River basin to solicit public opinion regarding this project after notifying landowners adjacent to the proposed site by mail of the time and place of the hearings. The commission shall not expend any of the remainder of the appropriation until the commission has completed the Level II study and the legislature has approved the completion;

(iv) **REPORT DUE:** 1986. An interim report of project status shall be submitted to the 1985 legislature. Any proposal to acquire permits shall be submitted to the 1985 legislature for authorization of the amount for permit acquisition.

(f) *Environmental and Archaeologic Assessments:*

(i) **LOCATION:** All Level III plans authorized in this section;

(ii) **PURPOSE:** To develop necessary fish, wildlife, recreation and archaeologic information regarding project studies;

(iii) **APPROPRIATION:** \$249,000;

(iv) **REPORT DUE:** Information regarding each plan shall be submitted with the report on that plan.

**Section 6.** Chapter 60, Sections 7, 9, 12, 13, 14, 16 and 17, 1982 Wyoming Session Laws apply to this act.

**Section 7.**

(a) There is appropriated from the water development account to the water development commission twelve million forty-five thousand dollars (\$12,045,000.00) or as much thereof as is necessary to carry out the purposes of this act. Unexpended funds appropriated from the water development account to the water development commission for each project under Sections 3 through 5 of this act shall revert to the water development account on July 1 of the year in which the final report is due to the legislature for the project study.

(b) There is appropriated to the attorney general's office from the water development account three hundred thousand dollars (\$300,000.00) for the purposes of undertaking a technical evaluation of water projects in the Little Big Horn River drainage, conducting an accounting audit, hiring such legal and engineering consultants as determined necessary by the governor and the attorney general and continuing stream gauging and other technical activities to support efforts to obtain an equitable apportionment of the Little Big Horn River.

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

Approved March 16, 1984.