

**Wyoming Association of Conservation Districts
Legislative Update #8
February 27, 2012**

Legislative action on tracked bills is in **Red**.

In a few instances summary information has been added based on committee discussions or discussions with the sponsor.

We are nearing the crossover deadline. That is the date by which the bills must have moved from the house of origin to the other house. You will note that several bills have died because they have not made it past the reading deadline for crossover.

BUDGETS:

The Joint Appropriations Committee (JAC) did not make across the board cuts to the budgets and indicated that adjustments would be made potentially in the next session if necessary. As of right now there will be no reduction in state appropriations for conservation districts.

The JAC did increase the appropriation for the Rangeland Health Assessment program funding from the Governor's proposed \$100,000 to \$200,000.

To review the content of the entire bill(s) please visit:
<http://legisweb.state.wy.us/2012/billindex/BillCrossRef.aspx?type=ALL>

The budget bill is on third reading in both houses. To this point no amendments have passed for Department of Agriculture budget.

HOUSE BILLS

HB 6 - Change of Use for Irrigation Districts

Sponsor: Joint Ag Committee

Summary: This bill is similar to one brought last year with some modification. The bill would modify conditions under which a change in use and change in place of use may be obtained for lands that have been out of production. The bill would allow an amendment to the certificate of appropriation after state board of control as determined in a contested case hearing that there is no injury to water rights of other appropriators with an exemption to provisions at 41-3-108 which establishes that changes must occur within a 5 year time frame. The bill proposed that this be limited to irrigation districts, this language was amended by the Joint Ag committee to include Conservancy Districts.

<http://legisweb.state.wy.us/2012/Introduced/HB0006.pdf>

WACD POSITION: OPPOSE. The Board is concerned about modifying water law to make an exception to the required demonstration of historic use prior to a change in use or change in place of use. The board questioned the legalities of making an exception only within irrigation, etc., districts. After testimony, the bill died in the House Agriculture Committee as no member of the Committee would make a motion for the bill to go forward. The Committee seemed to take the concerns of the Board very seriously.

HB 17 – Budget Hearings**Sponsor: Gingery**

Summary: This bill would amend when counties, school districts community colleges and special purpose districts are required to have their budget hearing. This bill would affect districts and change the budget hearing from “within” 5 days of the third Thursday to “not later than” 5 days “after” the third Thursday in July.

WACD POSITION: Support – This will allow districts more flexibility in when they hold their budget hearings. The bill passed by the House and is in the Senate

HB 18 - Notification of public land tenants-water rights changes**Sponsor – Joint Ag Committee**

Summary: This bill is in response to legislation that failed last year that would have amended water law to require that water rights on public lands be issued jointly to the land management agency as well as the leasee. The State Engineer had a number of concerns with that approach. This bill would create new section in water law that would require a change in place of use, of a water right is on state or public land, the petitioner shall seek consent for the proposed change from the affected tenant of the land. Proof of consent shall be attached to the petition. In allowing the change in use or change in place of use the board of control or in the case of use under adjudicated surface or groundwater permits only, the state engineer, shall consider all facts including: The economic loss to the tenant caused by the change, whether other sources of water are available to tenant, whether other sources of water are available to petitioner.

The bill would also require tenant notification and seeking of consent under voluntary relinquishment of water rights as well as when a public land management agency seeks to cancel or eliminate a use or place of use on public/state lands.

If consent is not obtained from tenant, tenant may request a hearing.

WACD POSITION: PENDING – The board discussed this bill again and decided to monitor its progress/discussion. The Association also visited with State Engineer in regard to MOU’s that are being developed between State and Forest Service & BLM and believe that will address a lot of the concerns and negate the need to change water law. The bill was heard and passed by the House Agriculture Committee. While the Committee appeared to appreciate the progress made by the MOU’s, they wanted the certainty of legislation. The bill is on second reading in the House.

HB 41 Omnibus Water Bill – Planning**Sponsor: Select Water Committee**

Summary: This bill contains planning funds and authorizations for a number of water projects throughout the state. They include:

Bear River Hydrology Model Lincoln/Uinta Counties \$50,000
 Guernsey Master Plan Platte County 125,000
 Lovell Master Plan Big Horn County 110,000
 Middle North Platte Watershed Natrona County 250,000
 North Platte Water Yield Analysis Carbon County 75,000
 Statewide Water Research Statewide 400,000
 Sundance Master Plan Crook County 150,000
 Gillette Regional Connections Campbell County \$500,000
 Greybull Valley Hydropower Big Horn County 85,000
 Indian Paintbrush Water Supply Teton County 375,000
 Weather Modification PilotProgram Albany/Carbon/Fremont/Sublette Counties
 2,400,000
 Badwater-Poison Creek Watershed Fremont/Natrona Counties \$250,000
 Upper Green River Watershed Sublette/Lincoln/Teton Counties 300,000

Nowood River Storage Washakie/Big Horn Counties \$350,000
 Shell Valley Storage Big Horn County 350,000
 Sheridan Supplemental Storage Sheridan County 250,000
 Austin Wall Canals Uinta County \$150,000
 Basin/Big Horn Canal Big Horn County 150,000
 Hawk Springs Master Plan Goshen County 200,000
 Lakeview Irrigation Master Plan Park County 250,000

WACD POSITION: Monitor The bill was approved by the House and is in the Senate.

HB 71 - State Coordinator

Sponsor: Jaggi

The bill would modify the state planning coordinator position. The state coordinator, serving at the pleasure of the Governor, would be responsible for the coordination of state positions regarding federal actions. <http://legisweb.state.wy.us/2012/Introduced/HB0071.pdf>

WACD Position: Monitor

Status: The bill was withdrawn by the sponsor who asked that it be considered for a Interim Study.

HB 90 – Baseline Scientific Assessments

Sponsor: Lubnau

This bill directs the governor's office to supervise the collection of baseline scientific assessment data which may impact agricultural, mineral, geological, historical or environmental resources. The data collected shall be of sufficient quality and quantity to provide a scientifically defensible record of the ambient environment in a defined geographic area. The governor's office is directed to utilize agencies and "all interested local governments." \$500,000 is appropriated and the governor's office can transfer funds to the agencies or political entities of the state.

WACD Position: Monitor

Status: An amendment was added restricting the baseline data collected to public lands and adding a provision that the "governor may designate data collected from private sources containing proprietary information or trade secrets as confidential and not subject to inspection." The bill passed the House and is in the Senate.

SENATE FILES

SF 25 - Public Records

Sponsor: Joint Judiciary

Summary: This bill will modify the definition of public records to stipulate that a record is "any information created, accepted, or obtained by, or on behalf of any state agency or political subdivision, or a quorum or majority thereof in furtherance of its official function and transaction of public business. Without limiting the foregoing, the term "public records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by or on behalf of a state agency or political subdivision in furtherance of the transaction of public business of the agency or subdivision, whether at a meeting or outside a meeting of the body, which is not privileged or confidential by law".

The bill includes language to define application as a written request for a public record but allows the custodian of the record may at its discretion deem a verbal request to be an application, amends the provisions pertaining to rights of inspection to be during the business hours of the entity.

Includes language that stipulates that the custodian shall notify an applicant of availability of a public record within 7 business days of the acknowledged receipt of the request unless good cause exists preventing a response in that time period. If the applicant is not satisfied that good cause exists the applicant may petition district court. If a public record is readily available it shall be release immediately

to the applicant so long as the release does not impair or impede the agency's ability to discharge its duties.

If the records are in active use or storage the custodian will notify applicant within 7 days of acknowledged receipt of the request unless good cause exists preventing a response. Again, applicant can petition the court for a determination on good cause. Records readily available must be released immediately so long as does not impair agency's ability to discharge duties.

The bill amends the grounds for denial of records provisions to specifically exempt information concerning an agriculture operation, farming or conservation practice, or the land itself if the information was provided by an ag producer, including geospatial information. Provided, however if otherwise permitted by law the inspection of the records shall be allowed in accordance with the following:

If the custodian determines that the information will not be subsequently disclosed except in accordance with subparagraph (C) of this paragraph, the custodian may allow the right of inspection

(I) When providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practice; or

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(II) When responding to a disease or pest threat to agricultural operations, if the custodian determines that a threat to agricultural operations exists and the disclosure of information is necessary to assist in responding to the disease or pest threat as authorized by law.

(B) The custodian shall allow the right of inspection of payment information under a program of the state or of any agency, institution or political 15 subdivision of the state, including the names and addresses of recipients of payments;

(C) The custodian shall allow the right of inspection if the information has been transformed into a statistical or aggregate form without naming:

(I) Any individual owner, operator or 1 producer; or

(II) A specific data gathering site.

(D) The custodian shall allow the right of inspection if the disclosure of information is pursuant to the consent of the agricultural producer or owner of the agricultural land;

(E) As used in this paragraph:

(I) "Agricultural operation" means the production and marketing of agricultural products or livestock;

(II) "Agricultural producer" means any producer of livestock, crops or dairy products from an agricultural operation.

This bill also changes "knowingly" to "intentionally" in the penalty provisions.

WACD POSITION:

SUPPORT. A resolution was adopted at the business meeting specifically pertaining to the exemption of agriculture data and information language. Amendments were added on the Senate floor that would have changed the definition of when a conversation is a public record. They were later removed. The bill passed the Senate in its original form.

SF 27 – Public Meetings

Sponsor - Joint Judiciary Committee

SUMMARY: The legislation as passed out of Judiciary would amend the definition “Action” to mean the transaction of official business including a collective decision, commitment or promise to make a positive or negative decision or an actual vote upon a motion, proposal, resolution, regulation, rule, order or ordinance at a meeting. It also amends definition of “Meeting” to include the term “expressed” purpose of discussion, deliberation, presentation of information or taking action regarding public business. The definition also was amended to include language that stipulates that an assembly includes “communicating in person by means of telephone or electronic communication or any other Manner such that all participating members are able to communicate with each other contemporaneously.”

The language also stipulates that no meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussions contemporaneously and that communications outside a meeting, including sequential communications among member of an agency (board) shall not be used to circumvent the purposes of the act.

It adds language that requires those who want notice of meetings to request such notice in writing and renew that request annually.

Under the Special meetings provisions it allows the presiding officer of governing body to give notice to members and newspapers by “verbal, electronic or written means”. It includes a new provision requiring at least 8 hours notice prior to the meeting. Proof of delivery of notice may be made by affidavit of the clerk or other employee responsible for distribution of the notice.

Under the emergency meeting requirements, new language is included that amends the requirement that any action taken at an emergency meeting has to be acted on at an open public meeting within 48 hours, to exclude weekends and holidays unless the event constituting the emergency continues to exist after 48 hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency but no later than 30 days of the emergency action being taken. This language was in response to WACD’s request based on feedback from districts who were finding it impossible to comply with the 48 hour requirement due to emergency situations such as floods, etc.

Language also is added that clarifies that the day to day administrative activities of an agency, its officers and employees are not subject to the notice requirements.

The executive session provisions were amended to stipulate that a motion to hold an executive session which specifies the reasons (as allowed in current statute, i.e. Personnel action, legal discussions, etc) is sufficient notice of the issue to be considered in executive session.

The bill also amends the penalty section to modify that any member who “knowingly and willfully” to “knowingly and intentionally”. This change was questioned by the Committee and was requested during the Workgroups deliberations by some county prosecuting attorneys. The language change was left in however there will likely be more discussion related to this issue.

WACD POSITION: SUPPORT. **The bill passed the Senate.**

SF 41 - Wolf Management

Sponsor: Jt. Travel, Recreation and Wildlife

Summary – This bill would amend the statutes pertaining to Wyoming’s Wolf management Plan to allow the agreement reached between Governor Mead and Fish & Wildlife to continue to proceed. Details on that agreement can be found at:

<http://gf.state.wy.us/downloads/pdf/wolfplan2011/WyomingUSFWSAgreementFactSheet.pdf>

Joint Travel will meet November 8 & 9 in Thermopolis and act on this legislation. The Governor’s office has conducted considerable outreach with those most affected by the changes. The Stock Growers Association has come out in support of the modifications.

WACD POSITION: Support. *The bill passed the Senate.*

SF 42 – Wildlife Trust - Large Project Funding

Sponsor: Select Natural Resource Committee

Summary: This bill contains the projects that are \$200,000 or more that require legislative approval. The bill includes 12 easement projects and one watershed project – Greybull River Watershed.

Easements include:

Munn Place – sponsor Wyoming Land Trust – Sublette County

Devils Tower – sponsor WSGALT – Crook County

North Cottonwood – Conservation fund – Sublette County

Luman Ranch – Wyoming Land Trust – Sublette County

Johnson sections – Wyoming Land Trust – Sublette County

Diamond G – Jackson Hole Land Trust – Fremont County

Wunder Ranch – Jackson Hole Land Trust – Fremont

Richie Ranch – Wyoming Game & Fish Commission – Sublette County

Mooncrest/MC Ranch – Wyoming Land Trust – Park County

Weber Ranch – Nature Conservancy – Carbon County

Double A Ranch – Nature Conservancy – Fremont

Three Bar X Ranch – Nature Conservancy – Fremont

WACD POSITION: Monitor *The bill passed second reading in the Senate.*

SF 47 – Omnibus Water Bill Construction

Sponsor: Select Water Committee

Summary: This bill contains water projects to be funded in the next year. They include:

Big Horn Regional Well Connection

Buffalo Northwest Pipeline

Casper Poplar Transmission Pipeline

Cody West Transmission Pipeline

Fort Laramie Storage Tank

Gillette Regional Extensions

Lander Water Supply

Lovell Transmission Pipeline

Northwest Rural Northern Expansion

Rolling Hills Water Supply

Sundance Storage Tank

Big Horn Canal Rehabilitation 2012

Fayette Irrigation Rehabilitation

Lake Hattie Dam

Lovell Canal Rehabilitation 2012

Midvale Rehabilitation 2012

Shell Canal Tunnel Rehabilitation
Amendments to previously funded projects

WACD POSITION: Monitor The bill passed the Senate.

SF 55 - Purchase of Federal Lands

Sponsor: Bebout

Summary: This bill allows the Board of Land Commissioners to purchase Federal lands using proceeds from the sale of state trust lands to the federal government. The bill is aimed at using the proceeds from selling land to the Federal Government to purchase other federal land. It is in response to the difficulty in trading for federal land. <http://legisweb.state.wy.us/2012/Introduced/SF0055.pdf>

WACD POSITION: Monitor

Status: The bill is on second reading in the Senate.

SF 64 Criminal Trespass

Sponsor: Hines

Summary The bill sets a presumption of knowledge for entering private land. The problem being addressed was that for large areas with no fences trespass is usually not prosecuted unless there is extensive signing.

<http://legisweb.state.wy.us/2012/Introduced/SF0064.pdf>

WACD POSITION: Monitor

Status: The bill was not considered by the Senate on General File and has therefore died.

SF 65 - Applied Agricultural Research Funding Program

Sponsor: Anderson

Summary: The bill would create a grant program within the Department of Agriculture with an appropriation of \$200,000 for applied agriculture resource projects. It is aimed at developing information that will directly help producers.

<http://legisweb.state.wy.us/2012/Introduced/SF0065.pdf>

WACD POSITION: Monitor

Status: The bill is on second reading in the Senate.

SF 76 - Water-Beneficial Use

Sponsor: Hicks

Summary: Would reserve to the Legislature the right to determine beneficial use and enumerate the beneficial uses. <http://legisweb.state.wy.us/2012/Introduced/SF0076.pdf>

WACD POSITION: Monitor

Status: The bill was laid back by the sponsor.

SF 77 - Expenditure of Public Funds and Government Competition

Sponsor: Case

Summary: Directs the Department of Administration to develop a website that allows the public to lodge complaints where they think government is unfairly competing with the private sector.

<http://legisweb.state.wy.us/2012/Introduced/SF0077.pdf>

WACD POSITION: Monitor

Status: The bill is on second reading in the Senate.

SF 84 - County Commissions – Special Expertise

Sponsor: Joint Minerals Committee

Summary: The bill authorizes counties to participate in federal planning processes and declares that the counties have special expertise in certain areas. <http://legisweb.state.wy.us/2012/Introduced/SF0084.pdf>

WACD POSITION: Monitor

Status: The bill passed the Senate.

SF 85 General Permits

Sponsor: Joint Minerals Committee

Summary Authorizes the Department of Environmental Quality to issue General Permits. Stipulates that they will be issued in a manner prescribed by rule by the Environmental Quality Council. *(the bill is in response to a court case holding that general permits are rules and must go through rule making)*

<http://legisweb.state.wy.us/2012/Introduced/SF0085.pdf>

WACD POSITION: Support

Status: The bill was passed by the Senate and approved by the House Minerals Committee.

SF 86 – Greenhouse Gas Air Quality Regulation

Sponsor: Joint Minerals Committee

Summary: Authorizes the Department of Environmental Quality to adopt regulations for greenhouse gasses which is not more stringent than federal regulations.

<http://legisweb.state.wy.us/2012/Introduced/SF0087.pdf>

WACD POSITION: Monitor

Status: The bill was passed by the Senate.

SF 101 - Special Districts-Exclusion of Property

Sponsor: Ross

Summary: Currently a property owner who is precluded by applicable state or federal law, rule or regulation from using the services of the district may petition to be relieved of paying the levy. Under the bill an owner who at the time of filing the petition, does not take, use or benefit from the services provided by the district may petition that they not be assessed.

<http://legisweb.state.wy.us/2012/Introduced/SF0101.pdf>

WACD POSITION: Oppose

Status: The bill was withdrawn by the Sponsor.

SF 102 – State Lands Management

Sponsor: Bebout

Summary: Prescribes that all land held by the state other than that owned by the Department of Transportation or Game and Fish Commission be held, bought and sold by the Board of Land Commissioners. <http://legisweb.state.wy.us/2012/Introduced/SF0102.pdf>

WACD POSITION: Monitor

Status: The bill did not make General File cutoff and therefore died.

SJ 1 - Wildlife Property of the State

Sponsor: Hicks

Summary: Proposes a Constitutional amendment to specify the Wildlife is the property of the state.

<http://legisweb.state.wy.us/2012/Introduced/SJ0001.pdf>

WACD POSITION: Monitor

Status: The bill did not make General File cutoff and therefore died.