

HOUSE BILL NO. HB0088

County and prosecuting attorney appointment.

Sponsored by: Representative(s) Madden and Senator(s)  
Burns and Case

A BILL

for

1 AN ACT relating to county and prosecuting attorneys;  
 2 providing for the appointment or election of county and  
 3 prosecuting attorneys; specifying circumstances when  
 4 election is required; providing conforming amendments;  
 5 providing for continuity of the terms of currently elected  
 6 county and prosecuting attorneys; and providing for an  
 7 effective date.

8

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

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11 **Section 1.** W.S. 18-3-306 is created to read:

12

13 **18-3-306. Proposition to appoint county and**  
 14 **prosecuting attorney.**

15

1           (a) From and after the first Monday in January, 2014,  
2 each county and prosecuting attorney may be appointed by  
3 the county commissioners in the respective counties if a  
4 proposition for the appointment of the county and  
5 prosecuting attorney is submitted to a vote of the  
6 qualified electors of the county and a majority of those  
7 casting their ballots vote in favor of appointment.

8

9           (b) The proposition for appointment of a county and  
10 prosecuting attorney shall, insofar as is consistent with  
11 the general purposes of this section, be conducted in  
12 accordance with W.S. 18-3-501(c) and (d). Immediately upon  
13 certification of election results the county clerk shall  
14 notify the secretary of state of the election results.

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16           (c) If the proposition to appoint a county and  
17 prosecuting attorney is approved by the electors, the board  
18 of county commissioners shall appoint a person meeting the  
19 qualifications of W.S. 18-3-301(a) to the office for a term  
20 of one (1) year. The person may be reappointed on a year-  
21 to-year basis and may be removed by the board of county  
22 commissioners for cause.

23

1           (d) Each county and prosecuting attorney who is  
2 appointed pursuant to a proposition conducted under  
3 subsections (a) and (b) of this section, may be elected in  
4 the respective county if a proposition for the election of  
5 the county and prosecuting attorney is submitted to a vote  
6 of the qualified electors of the county and a majority of  
7 those casting their ballots vote in favor of election. The  
8 proposition to elect the county and prosecuting attorney  
9 shall be conducted in the same manner provided in  
10 subsections (a) and (b) of this section.

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12           (e) Nothing in this section shall affect the term of  
13 office of any county and prosecuting attorney who was duly  
14 elected.

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16           **Section 2.** W.S. 18-3-301 and 22-2-105(a)(ii)(intro)  
17 are amended to read:

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19           **18-3-301. Office created; qualifications; certificate**  
20 **of election; counties empowered to consolidate.**

21

22           (a) In judicial districts in which the office of  
23 district attorney has not been created there shall be  
24 elected or appointed by the county commissioners in each

1 county a county and prosecuting attorney who at the time of  
2 his nomination and election or appointment and during his  
3 term of office, shall be a member of the bar of this state.  
4 A copy of his certificate of election or appointment and  
5 oath shall be filed by the county and prosecuting attorney  
6 with the clerk of the district court for his county or  
7 counties. In those judicial districts in which the office  
8 of district attorney has been created the county  
9 commissioners shall appoint an attorney to the office of  
10 county attorney for a term of one (1) year, who may be  
11 reappointed on a year-to-year basis. The county  
12 commissioners may remove the county attorney for cause.

13

14 (b) The boards of county commissioners of two (2) or  
15 more contiguous counties not served by a district attorney  
16 may by resolution consolidate the offices of, and agree to  
17 be served by, a single county and prosecuting attorney who  
18 shall be elected by a vote of the electors or appointed by  
19 a majority vote of the members of the boards of county  
20 commissioners of all the counties within the consolidated  
21 area. The commissioners' vote shall be weighted so that  
22 the total vote of the commissioners of each county is  
23 equal.

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1           **22-2-105. Terms of office and offices voted on at**  
2 **general elections.**

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4           (a) The terms of office and offices voted on at  
5 general elections are as follows:

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7           (ii) Four Year Term. - At the general election  
8 in 1974 and in every fourth (4th) year thereafter, there  
9 shall be elected the following officers: one (1) governor,  
10 one (1) secretary of state, one (1) state treasurer, one  
11 (1) state auditor, one (1) superintendent of public  
12 instruction, county clerks, county treasurers, county  
13 assessors, county coroners, county and prosecuting  
14 attorneys provided the county and prosecuting attorney is  
15 not required to be appointed as provided by W.S. 18-3-306,  
16 district attorneys, sheriffs, clerks of the district court.

17 At every general election there shall be elected the  
18 necessary member or members of the Wyoming senate and  
19 county commissioners. The question of retention of a  
20 circuit court judge or a magistrate of the circuit court  
21 shall be submitted:

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1           **Section 3.** This act is effective July 1, 2013.

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(END)