

HOUSE BILL NO. HB0109

Attorney general-elected official.

Sponsored by: Representative(s) Gay, Gingery, Halverson,
Kroeker and Loucks

A BILL

for

1 AN ACT relating to the attorney general; providing for the
2 election of the attorney general; setting attorney
3 general's term at four years; providing for filling a
4 vacancy in the position; repealing provision for interim
5 appointment; providing for application of ethics and
6 disclosure act to the office of the attorney general;
7 amending certain provisions regarding actions taken by the
8 attorney general pursuant to the direction of the governor;
9 making conforming amendments; and providing for an
10 effective date.

11

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

13

14 **Section 1.** W.S. 1-35-104, 9-1-601(a) and (c),
15 9-1-602, 9-1-603(b) and (c), 9-1-604, 9-1-605(b) through
16 (d), 9-1-608(a) and (b), 9-1-611(c), 9-1-633(a), 9-1-636(b)

1 and (c) (intro), 9-13-102(a) (xii) (A) and (xvi),
2 9-13-108(a) (intro), 9-14-101, 22-2-105(a) (ii) (intro),
3 22-6-117(a) (iv), 28-12-103, 35-7-1004 and 35-11-1507(a) are
4 amended to read:

5

6 **1-35-104. Actions under control of attorney general;**
7 **settlement or compromise with approval of governor.**

8

9 The attorney general shall control all investigations and
10 actions instituted and conducted in behalf of the state as
11 provided in W.S. 1-35-103 and has full discretionary powers
12 to prosecute all investigations and litigation and, ~~with~~
13 ~~the approval of the governor,~~ to settle, compromise or
14 dismiss the actions.

15

16 **9-1-601. Appointment; term; removal; special**
17 **assistant for legislative affairs; qualifications.**

18

19 (a) Until the term of office commences for the
20 general election in 2014, the attorney general of the state
21 of Wyoming shall be appointed by the governor with the
22 advice and consent of the senate in accordance with W.S.
23 28-12-101 through 28-12-103 and may be removed by the
24 governor as provided in W.S. 9-1-202. Beginning at the

1 general election in 2014, the attorney general shall be
2 elected in a statewide election for a term of four (4)
3 years.

4
5 (c) ~~Prior to his~~ To be eligible for appointment or
6 election, the attorney general shall have been a practicing
7 attorney for at least four (4) years. ~~At the date of~~
8 ~~appointment, he~~ shall be in good standing in the courts of
9 record of this state and shall be a resident and elector of
10 the state.

11
12 **9-1-602. Vacancy in office.**

13
14 In case of a vacancy in the office of attorney general
15 appointed under W.S. 9-1-601(a), the governor shall appoint
16 a qualified person to fill the vacancy in accordance with
17 the provisions of W.S. 28-12-101(b). A vacancy in the
18 office of an elected attorney general shall be filled as
19 provided by W.S. 22-18-111. Appointments to fill a vacancy
20 shall be subject to senate confirmation. If the senate
21 fails to confirm the person appointed to fill the vacancy
22 of an elected attorney general, the procedure specified in
23 W.S. 22-18-111 shall be repeated and the governor shall

1 appoint a qualified person to fill the vacancy in
2 accordance with provisions of W.S. 28-12-101(b).

3

4 9-1-603. Duties generally; retention of qualified
5 practicing attorneys; matters in which county or state is
6 party or has interest; assistance to county and district
7 attorneys in felony trials.

8

9 (b) ~~With the approval of the governor~~ The attorney
10 general may retain qualified practicing attorneys to
11 prosecute fee-generating suits for the state if expertise
12 in a particular field is desirable.

13

14 (c) Upon the failure or refusal of any district or
15 county attorney to act in any criminal or civil case or
16 matter in which the county, state or any agency thereof is
17 a party, or has an interest, the attorney general may, at
18 the request of the board of county commissioners of the
19 county involved or of the district judge of the judicial
20 district involved, act on behalf of the county, state or
21 any agency thereof, if after a thorough investigation the
22 action is deemed advisable by the attorney general. The
23 cost of investigation and the cost of any prosecution
24 arising therefrom shall be paid out of the general fund of

1 the county where the investigation and prosecution take
2 place. The attorney general ~~shall~~ may also, ~~upon direction~~
3 ~~of the governor,~~ investigate any matter in any county of
4 the state in which the county, state or any agency thereof
5 may be interested. After investigation, the attorney
6 general shall submit a report of the investigation ~~to the~~
7 ~~governor and~~ to the district or county attorney of each
8 county involved and may take such other action as he deems
9 appropriate.

10

11 **9-1-604. Office in state capitol building; private**
12 **practice prohibited; exception.**

13

14 The attorney general shall keep an office in the state
15 capitol building, shall not open an office elsewhere and
16 shall not engage in any private practice except to
17 consummate business pending at the time of his appointment
18 or election if not in conflict with the duties of his
19 office.

20

21 **9-1-605. Approval of public securities and official**
22 **bonds; water rights proceedings; investigation of**
23 **misconduct of county official; report to governor;**
24 **commencement of action.**

1

2 (b) ~~Under the direction of the governor~~ The attorney
3 general shall institute and pursue proceedings to maintain
4 the state's and its citizens' rights in the waters of
5 interstate streams.

6

7 (c) Upon representation to the ~~governor~~ attorney
8 general of misconduct or malfeasance in office or the
9 commission of a crime by any county officer in the state
10 and if the ~~governor~~ attorney general believes the ends of
11 justice demand or the matter will not be properly
12 investigated and prosecuted by the sheriff and by the
13 district attorney of the county, ~~the governor may direct~~
14 the attorney general ~~to~~ may investigate the case.

15

16 (d) Upon completion of the investigation, the
17 attorney general ~~shall report the results of the~~
18 ~~investigation and his recommendations to the governor. If~~
19 ~~the governor and the attorney general determine that the~~
20 ~~attorney general should~~ may institute a criminal or civil
21 action, ~~the attorney general shall commence the action~~ as
22 he determines appropriate. The attorney general shall have
23 the authority and duty vested in district attorneys in this
24 state.

1

2

9-1-608. Assistant attorneys general.

3

4

(a) ~~With the approval of the governor,~~ The attorney general may appoint assistant attorneys general necessary for the efficient operation of his office. Each assistant attorney general shall be a member in good standing of the Wyoming bar and shall serve at the pleasure of the attorney general. The assistants shall act under the direction of the attorney general and his deputies. The attorney general, his deputies or his assistants may appear in any courts of the state or the United States and prosecute or defend on behalf of the state. An appearance by the attorney general or his staff does not waive the sovereign immunity of the state.

16

17

(b) ~~With the approval of the governor,~~ The attorney general may appoint special assistant attorneys general for any purposes. A person shall not be employed as an attorney or legal counsel by any department, board, agency, commission or institution of the state, or represent the state in that capacity, except by the written appointment of the attorney general. Written appointment of the

23

1 attorney general shall not be required for the employment
2 of legal counsel by elected state officials.

3

4 **9-1-611. Division of criminal investigation; created;**
5 **definitions; director; appointment; qualifications.**

6

7 (c) ~~With the approval of the governor,~~ The attorney
8 general shall appoint a director who is the chief
9 administrative officer and chief agent of the division.

10

11 **9-1-633. Wyoming law enforcement academy; director;**
12 **appointment; term; qualifications; employees; salaries;**
13 **curriculum and training programs; fees; disposition.**

14

15 (a) A director of the Wyoming law enforcement academy
16 shall be appointed by the attorney general. ~~with the~~
17 ~~consent of the governor.~~ The director shall serve at the
18 pleasure of the attorney general. He shall have
19 administrative and operational experience in criminal
20 justice and such other qualifications as are satisfactory
21 to the attorney general.

22

1 9-1-636. Division of victim services; created;
2 appointment of director and deputy director; administrative
3 and clerical employees; definitions.

4
5 (b) ~~With the approval of the governor,~~ The attorney
6 general shall appoint a director who is the chief
7 administrative officer of the division. The director is
8 responsible to the attorney general for the operation of
9 the division and shall serve at the pleasure of the
10 attorney general.

11
12 (c) With the consent of the attorney general, ~~and the~~
13 ~~governor,~~ and subject to legislative appropriation, the
14 director may:

15
16 **9-13-102. Definitions.**

17
18 (a) As used in this article:

19
20 (xii) "Public employee" means any of the
21 following state employees:

22
23 (A) The attorney general until the 2014
24 general election and the director of any department of the

1 executive branch appointed by the governor under W.S.
2 9-2-1706, or the director of any legislative agency;

3

4 (xvi) "State office" means the state offices of
5 governor, treasurer, superintendent of public instruction,
6 auditor, secretary of state, attorney general after the
7 2014 general election and member of the state legislature;

8

9 **9-13-108. Disclosure required.**

10

11 (a) Not later than January 31 annually, each of the
12 state's five (5) elected officials, ~~and~~ each member of the
13 Wyoming legislature and after the 2014 general election the
14 attorney general shall file a financial disclosure form
15 with the secretary of state. The form shall be signed by
16 the elected official or legislator filing it and under a
17 certification that it is accurate. The financial
18 disclosure form shall contain the following information
19 current as of January 15 of that year:

20

21 **9-14-101. Second amendment defense.**

22

23 The attorney general may seek to intervene or file an
24 amicus curiae brief in any lawsuit filed in any state or

1 federal court in Wyoming, or filed against any Wyoming
2 citizen or firm in any other jurisdiction for damages for
3 injuries as a result of the use of fire arms that are not
4 defective, if in his judgment, the action endangers the
5 constitutional right of citizens of Wyoming to keep and
6 bear arms. The attorney general is directed to advance
7 arguments that protect the constitutional right to bear
8 arms. ~~Before intervening in any lawsuit pursuant to this~~
9 ~~section, the attorney general shall obtain the approval of~~
10 ~~the governor.~~

11
12 **22-2-105. Terms of office and offices voted on at**
13 **general elections.**

14
15 (a) The terms of office and offices voted on at
16 general elections are as follows:

17
18 (ii) Four Year Term. - At the general election
19 in 1974 and in every fourth ~~(4th)~~ year thereafter, there
20 shall be elected the following officers: one (1) governor,
21 one (1) secretary of state, one (1) state treasurer, one
22 (1) state auditor, one (1) superintendent of public
23 instruction, county clerks, county treasurers, county
24 assessors, county coroners, county and prosecuting

1 attorneys, district attorneys, sheriffs, clerks of the
2 district court. At every general election there shall be
3 elected the necessary member or members of the Wyoming
4 senate and county commissioners. At the general election
5 in 2014 and every fourth year thereafter, there shall be
6 elected a state attorney general. The question of retention
7 of a circuit court judge or a magistrate of the circuit
8 court shall be submitted:

9

10 **22-6-117. Order of listing offices in partisan**
11 **elections.**

12

13 (a) The major party primary and general partisan
14 election ballots shall contain the offices to be voted on
15 in the following order:

16

17 (iv) Candidates for governor, secretary of
18 state, state auditor, state treasurer, attorney general and
19 superintendent of public instruction;

20

21 **28-12-103. Expiration date of appointees' terms.**

22

23 Notwithstanding any other provision of law, effective July
24 1, 1979, after the expiration of the current term of office

1 of each person appointed by the governor and required to be
2 confirmed by the senate, the next term of that office
3 expires on March 1 during the year of regular expiration.
4 Thereafter, each term, as specified in this section, and
5 each term of office on any board, commission or committee
6 created by the laws of this state after July 1, 1979, and
7 for which senate confirmation is required, expires on March
8 1 during the year of regular expiration. ~~Notwithstanding~~
9 ~~the provisions of this section, the term of an attorney~~
10 ~~general serving pursuant to W.S. 9-1-601(b) shall terminate~~
11 ~~as provided by that subsection.~~

12

13 **35-7-1004. Personnel to administer provisions.**

14

15 The attorney general ~~by and with the consent of the~~
16 ~~governor~~ may employ such personnel as necessary to
17 administer this act. Such personnel shall serve at the
18 pleasure of the attorney general at such compensation as
19 may be approved by the Wyoming personnel division. Said
20 personnel shall be assigned such duties as may be necessary
21 to assist the commissioner in the performance of his
22 responsibilities under this act for the efficient operation
23 of the work of the office.

24

