

HOUSE BILL NO. HB0138

Public ethics act violations-removal from office.

Sponsored by: Representative(s) Lubnau, Berger and Brown
and Senator(s) Bebout

A BILL

for

1 AN ACT relating to administration of the government;
2 providing procedures for the removal of a local official
3 from office for violation of the Ethics and Disclosure Act
4 as specified; providing for appeals; providing definitions;
5 and providing for an effective date.

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

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9 **Section 1.** W.S. 9-13-110 through 9-13-112 are created
10 to read:

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12 **9-13-110. Removal from local office; procedure;**
13 **appeal.**

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15 (a) Except for local officials whose procedure for
16 removal from office is provided by the constitution of the

1 state of Wyoming or by another specific statute, a local
2 official subject to removal from office for a violation of
3 this act may be removed as provided in this section.

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5 (b) Whenever it appears to a majority of a local
6 board, commission or council based on the verified
7 complaint of at least two (2) qualified electors of the
8 political subdivision for which the local official or local
9 public member is elected that the local official or local
10 public member has violated this act, the local board,
11 commission or council may direct an attorney representing
12 the same to commence and prosecute an action in the
13 district court of the county in which the local official or
14 local public member resides asking for the removal of the
15 local official or local public member. The action shall be
16 commenced by the filing of a verified petition in the name
17 of the local board, commission or council signed by the
18 attorney, setting forth the facts constituting the
19 violation of this act.

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21 (c) Whenever it appears to a majority of a municipal
22 governing body based on the verified complaint of at least
23 two (2) qualified electors of the municipality that a
24 municipal official has violated this act, the governing

1 body may direct the attorney for the municipality to
2 commence and prosecute an action in the district court of
3 the county in which the municipal official resides asking
4 for the removal of the municipal official. The action shall
5 be commenced by the filing of a verified petition in the
6 name of the municipal governing body signed by the attorney
7 setting forth the facts constituting the violation.

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9 (d) Whenever it appears to a majority of a county
10 commission based on the verified complaint of at least two
11 (2) qualified electors of the county for which the county
12 official is elected that a county official has violated
13 this act, they may direct the county attorney to commence
14 and prosecute an action in the district court of the county
15 in which the county official resides asking for the removal
16 of the county official. If the county attorney is the
17 county official who is alleged to have violated this act,
18 the county commission shall request that the attorney
19 general prosecute the action. The action shall be
20 commenced by the filing of a verified petition in the name
21 of the county commission signed by the attorney setting
22 forth the facts constituting the violation of this act.

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1 (e) Upon filing of a petition under subsections (b)
2 through (d) of this section, a summons and a copy of the
3 petition shall be served on the defendant as provided for
4 civil actions by the Wyoming Rules of Civil Procedure. The
5 answer shall be served as provided for civil actions by
6 Rule 12(b) of the Wyoming Rules of Civil Procedure. The
7 petition and answer are the only pleadings allowed and the
8 allegations of the answer so far as they conflict with the
9 petition shall be considered denied without a reply.

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11 (f) The action shall be tried in a summary manner by
12 the district court with or without a jury not less than
13 five (5) days nor more than thirty (30) days after the
14 answer is served. At the trial all questions touching the
15 sufficiency or certainty of the allegations of the petition
16 or answer shall be heard and determined and amendments
17 which are not inconsistent with the original pleadings
18 shall be authorized to be made at once and shall not delay
19 the trial. If the court finds by a preponderance of the
20 evidence the defendant violated this act as charged in the
21 petition, a judgment shall be entered removing the
22 defendant from office and taxing against him the costs of
23 the action.

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1 (g) The judge of a district court in which an action
2 for the removal of a local official is pending, if unable
3 to try the action within the period provided by this
4 section, shall request another district judge hear the
5 action.

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7 (h) Whenever a vacancy occurs in any office as a
8 result of this section, it shall be filled as provided by
9 law.

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11 (j) This section is supplemental to all other
12 statutes concerning removal of local officials. Nothing in
13 this section shall be construed to limit causes for removal
14 of a local official as otherwise provided by law.

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16 **9-13-111. Hearing by the supreme court.**

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18 Either party may appeal an order of the district court
19 under W.S. 9-13-110 to the supreme court in accordance with
20 the Wyoming Rules of Appellate Procedure. No pending appeal
21 shall suspend or supersede a judgment of the district court
22 removing the public official, and the local official shall
23 be suspended and barred from performing the duties of his

1 office from the time of the entry of such judgment so long
2 as the same remains unreversed.

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4 **9-13-112. Criminal statutes neither repealed nor**
5 **barred.**

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7 Nothing in W.S. 9-13-110 and 9-13-111 shall be construed as
8 repealing any law making it a crime or misdemeanor for any
9 local official to violate statutes of this state and
10 providing a punishment for the violation. Proceedings under
11 W.S. 9-13-110 and 9-13-111 shall not bar proceedings under
12 any criminal statute.

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14 **Section 2.** W.S. 9-13-102(a)(vii), by creating new
15 paragraphs (xvii) through (xxi) and by amending and
16 renumbering (xvii) as (xxii) is amended to read:

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18 **9-13-102. Definitions.**

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20 (a) As used in this article:

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22 (vii) "Local office" means the offices of county
23 commissioner, county treasurer, county assessor, county
24 clerk, county sheriff, county coroner, district attorney,

1 county attorney, mayor and member of the ~~council-governing~~
2 body of a municipality, member of the board of trustees of
3 a community college district or a school district and
4 member of a joint powers board or special district;~~;. As~~
5 ~~used in this paragraph "special district" means any special~~
6 ~~district specified under W.S. 22-29-103(a) and any other~~
7 ~~corporate district authorized to be formed as a political~~
8 ~~subdivision under the laws of this state;~~

9
10 (xvii) "County official" means a countywide
11 elected local office holder who is not a member of the
12 county commission;

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14 (xviii) "Local board, commission or council"
15 means a governing body of a municipality, a county
16 commission, the board of trustees of a community college
17 district or school district, a joint powers board or
18 special district board;

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20 (xix) "Local public member" means a part time
21 member of a municipal or county board, commission or
22 council, member of the board of trustees of a community
23 college district or school district, a joint powers board
24 or special district board;

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(xix) "Local official" means the holder of a local office;

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(xx) "Municipal official" means an elected municipal office holder who is not a member of the municipal governing body;

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(xxi) "Special district" means any special district specified under W.S. 22-29-103(a) and any other corporate district authorized to be formed as a political subdivision under the laws of this state;

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~~(xvii)~~(xxii) "This act" means W.S. 9-13-101 through ~~9-13-109~~9-13-112.

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Section 3. 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.

(END)