

HOUSE BILL NO. HB0234

Attorney general-elected official.

Sponsored by: Representative(s) Edmonds, Blackburn, Clem,
Halverson, Jennings, Lindholm, McKim, Reeder
and Winters

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 (4) 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

1 (d), 9-1-608(a) and (b), 9-1-611(c), 9-1-633(a) and
2 (b) (intro), 9-1-636(b) and (c) (intro), 9-13-102(a) (xii) (A)
3 and (xvi), 9-13-108(a) (intro), 9-14-101,
4 22-2-105(a) (ii) (intro), 22-6-117(a) (iv), 28-12-103,
5 35-7-1004 and 35-11-1507(a) are amended to read:

6

7 **1-35-104. Actions under control of attorney general;**
8 **settlement or compromise.**

9

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

16

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

19

20 (a) Until the term of office commences for the
21 general election in 2016, the attorney general of the state
22 of Wyoming shall be appointed by the governor with the
23 advice and consent of the senate in accordance with W.S.

1 28-12-101 through 28-12-103 and may be removed by the
2 governor as provided in W.S. 9-1-202. Beginning at the
3 general election in 2016, the attorney general shall be
4 elected in a statewide election for a term of four (4)
5 years.

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

13
14 **9-1-602. Vacancy in office.**

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

1 of an elected attorney general, the procedure specified in
2 W.S. 22-18-111 shall be repeated and the governor shall
3 appoint a qualified person to fill the vacancy in
4 accordance with provisions of W.S. 28-12-101(b).

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

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

15
16 (c) Upon the failure or refusal of any district or
17 county attorney to act in any criminal or civil case or
18 matter in which the county, state or any agency thereof is
19 a party, or has an interest, the attorney general may, at
20 the request of the board of county commissioners of the
21 county involved or of the district judge of the judicial
22 district involved, act on behalf of the county, state or
23 any agency thereof, if after a thorough investigation the

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

13

14 **9-1-604. Office in state capitol building; private**
15 **practice prohibited; exception.**

16

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

22

1 **9-1-605. Approval of public securities and official**
2 **bonds; water rights proceedings; investigation of**
3 **misconduct of county official; commencement of action.**

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

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

18
19 (d) Upon completion of the investigation, the
20 attorney general ~~shall report the results of the~~
21 ~~investigation and his recommendations to the governor. If~~
22 ~~the governor and the attorney general determine that the~~
23 ~~attorney general should~~ may institute a criminal or civil

1 action, ~~the attorney general shall commence the action~~ as
2 he determines appropriate. The attorney general shall have
3 the authority and duty vested in district attorneys in this
4 state.

5
6 **9-1-608. Assistant attorneys general.**

7
8 (a) ~~With the approval of the governor,~~ The attorney
9 general may appoint assistant attorneys general necessary
10 for the efficient operation of his office. Each assistant
11 attorney general shall be a member in good standing of the
12 Wyoming bar and shall serve at the pleasure of the attorney
13 general. The assistants shall act under the direction of
14 the attorney general and his deputies. The attorney
15 general, his deputies or his assistants may appear in any
16 courts of the state or the United States and prosecute or
17 defend on behalf of the state. An appearance by the
18 attorney general or his staff does not waive the sovereign
19 immunity of the state.

20
21 (b) ~~With the approval of the governor~~ The attorney
22 general may appoint special assistant attorneys general for
23 any purposes. A person shall not be employed as an attorney

1 or legal counsel by any department, board, agency,
2 commission or institution of the state, or represent the
3 state in that capacity, except by the written appointment
4 of the attorney general. Written appointment of the
5 attorney general shall not be required for the employment
6 of legal counsel by elected state officials.

7

8 **9-1-611. Division of criminal investigation; created;**
9 **definitions; director; appointment; qualifications.**

10

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

14

15 **9-1-633. Wyoming law enforcement academy; director;**
16 **appointment; term; qualifications; employees; salaries;**
17 **curriculum and training programs; fees; disposition.**

18

19 (a) A director of the Wyoming law enforcement academy
20 shall be appointed by the attorney general. ~~with the~~
21 ~~consent of the governor.~~ The director shall serve at the
22 pleasure of the attorney general. He shall have
23 administrative and operational experience in criminal

1 justice and such other qualifications as are satisfactory
2 to the attorney general.

3

4 (b) The director may employ assistants, instructors
5 and other personnel as approved by the attorney general.
6 ~~with the consent of the governor.~~ The attorney general may
7 appoint the director as a peace officer, if qualified
8 pursuant to W.S. 9-1-701 through 9-1-707. The director may
9 appoint full-time staff instructors who qualify pursuant to
10 W.S. 9-1-701 through 9-1-707 to perform as peace officers.
11 Persons appointed as peace officers pursuant to this
12 subsection shall be considered peace officers only:

13

14 **9-1-636. Division of victim services; created;**
15 **appointment of director and deputy director; administrative**
16 **and clerical employees; definitions.**

17

18 (b) ~~With the approval of the governor,~~ The attorney
19 general shall appoint a director who is the chief
20 administrative officer of the division. The director is
21 responsible to the attorney general for the operation of
22 the division and shall serve at the pleasure of the
23 attorney general.

1

2 (c) With the consent of the attorney general, ~~and the~~
3 ~~governor,~~ and subject to legislative appropriation, the
4 director may:

5

6 **9-13-102. Definitions.**

7

8 (a) As used in this article:

9

10 (xii) "Public employee" means any of the
11 following state employees:

12

13 (A) The attorney general until the 2016
14 general election and the director of any department of the
15 executive branch appointed by the governor under W.S.
16 9-2-1706, or the director of any legislative agency;

17

18 (xvi) "State office" means the state offices of
19 governor, treasurer, superintendent of public instruction,
20 auditor, secretary of state, attorney general after the
21 2016 general election and member of the state legislature;

22

23 **9-13-108. Disclosure required.**

1

2 (a) Not later than January 31 annually, each of the
3 state's five (5) elected officials, ~~and~~ each member of the
4 Wyoming legislature and after the 2016 general election the
5 attorney general shall file a financial disclosure form
6 with the secretary of state. The form shall be signed by
7 the elected official or legislator filing it and under a
8 certification that it is accurate. The financial
9 disclosure form shall contain the following information
10 current as of January 15 of that year:

11

12 **9-14-101. Second amendment defense.**

13

14 The attorney general may seek to intervene or file an
15 amicus curiae brief in any lawsuit filed in any state or
16 federal court in Wyoming, or filed against any Wyoming
17 citizen or firm in any other jurisdiction for damages for
18 injuries as a result of the use of fire arms that are not
19 defective, if in his judgment, the action endangers the
20 constitutional right of citizens of Wyoming to keep and
21 bear arms. The attorney general is directed to advance
22 arguments that protect the constitutional right to bear
23 arms. ~~Before intervening in any lawsuit pursuant to this~~

1 ~~section, the attorney general shall obtain the approval of~~
2 ~~the governor.~~

3

4 **22-2-105. Terms of office and offices voted on at**
5 **general elections.**

6

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

9

10 (ii) Four Year Term. - At the general election
11 in 1974 and in every fourth ~~(4th)~~ year thereafter, there
12 shall be elected the following officers: one (1) governor,
13 one (1) secretary of state, one (1) state treasurer, one
14 (1) state auditor, one (1) superintendent of public
15 instruction, county clerks, county treasurers, county
16 assessors, county coroners, county and prosecuting
17 attorneys, district attorneys, sheriffs, clerks of the
18 district court. At every general election there shall be
19 elected the necessary member or members of the Wyoming
20 senate and county commissioners. At the general election in
21 2016 and every fourth year thereafter, there shall be
22 elected a state attorney general. The question of retention

1 of a circuit court judge or a magistrate of the circuit
2 court shall be submitted:

3

4 **22-6-117. Order of listing offices in partisan**
5 **elections.**

6

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

10

11 (iv) Candidates for governor, secretary of
12 state, state auditor, state treasurer, attorney general and
13 superintendent of public instruction;

14

15 **28-12-103. Expiration date of appointees' terms.**

16

17 Notwithstanding any other provision of law, effective July
18 1, 1979, after the expiration of the current term of office
19 of each person appointed by the governor and required to be
20 confirmed by the senate, the next term of that office
21 expires on March 1 during the year of regular expiration.
22 Thereafter, each term, as specified in this section, and
23 each term of office on any board, commission or committee

1 created by the laws of this state after July 1, 1979, and
2 for which senate confirmation is required, expires on March
3 1 during the year of regular expiration. ~~Notwithstanding~~
4 ~~the provisions of this section, the term of an attorney~~
5 ~~general serving pursuant to W.S. 9-1-601(b) shall terminate~~
6 ~~as provided by that subsection.~~

7

8 **35-7-1004. Personnel to administer provisions.**

9

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

19

20 **35-11-1507. Injunction proceedings; penalties.**

21

22 (a) When, in the opinion of the governor, a person is
23 violating or is about to violate any provision of this

1 article, the governor shall ~~direct~~ inform the attorney
2 general and request the attorney general to apply to the
3 appropriate court for an order enjoining the person from
4 engaging or continuing to engage in the activity. Upon a
5 showing that the person has engaged, or is about to engage
6 in the activity, the court may grant a permanent or
7 temporary injunction, restraining order or other order.

8

9 **Section 2.** W.S. 9-1-601(b) is repealed.

10

11 **Section 3.** This act is effective immediately upon
12 completion of all acts necessary for a bill to become law
13 as provided by Article 4, Section 8 of the Wyoming
14 Constitution.

15

16

(END)