

WORKING DRAFT

HOUSE BILL NO. _____

State capital construction staffing.

Sponsored by: Select Committee on Capital Financing and Investments

A BILL

for

1 AN ACT relating to the administration of government;
2 transferring positions, functions and associated budgets
3 from the department of administration and information to
4 the state building commission; specifying duties under the
5 state building commission; providing for recommendations of
6 the state building commission to be reflected in the
7 proposed state budget; and providing for an effective date.

8

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

10

***** STAFF COMMENTS *****

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This bill implements Representative Reese's motion calling for the entire staff of the construction management division to be placed as employees of the SBC; the commission to employ its secretary; and for the SBC's recommendations on state capcon to be included in the Governor's proposed budget. There is some difficulty in attempting to clearly delineate the functions which will be under each of the agencies. This is due, among other reasons, to the

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1 intertwining/interaction of the construction
2 section under Mr. Cathcart with general
3 maintenance and other functions of A&I. Some of
4 the difficulty could be addressed by creating
5 duplicate functions, one for real property and
6 one for other property, but it was not clear that
7 anyone intended to take that course of action.
8 Those provisions which appear to contain
9 functions that could arguably be within the
10 intent to transfer or stay with general services
11 are shown in bold.

12
13 **Section 1.** W.S. 9-2-1013(d)(i), 9-5-101 by
14 creating a new subsection (d) ... are amended to read:

15 ***** STAFF COMMENTS *****
16 **The following section requires the SBC's**
17 **recommendations to be included in the Governor's**
18 **proposed budget. It does not require the**
19 **Governor's proposal to be based upon the SBC's**
20 **recommendations.**

21
22 **9-2-1013. State budget; distribution of copies to**
23 **legislators; copies and reports of authorizations.**

24
25 (d) In addition to the items contained in subsection
26 (a) of this section and notwithstanding any other
27 recommendations made by the governor, the state budget
28 shall also include the governor's recommendations for
29 appropriations for the ensuing two (2) years, or if a
30 supplemental budget request, the remainder of the budget
31 period, subject to the following:

32

1 (i) The state budget shall include the
2 governor's recommendations for a total appropriation from
3 the school foundation program account and based upon
4 recommendations of the school facilities commission under
5 W.S. 21-15-119, a total appropriation for school capital
6 construction purposes for both fiscal years. The state
7 budget shall include the state building commission's and
8 governor's recommendations for appropriations for state
9 capital construction based upon the needs assessment and
10 construction schedule and maintenance funding schedule
11 under W.S. 9-5-107 and 9-5-108 for both fiscal years;

12 ***** STAFF COMMENTS *****

13 **The following section repeals many of the duties**
14 **of the general services division relating to**
15 **capital construction. Those duties are assumed**
16 **by the state building commission under W.S. 9-5-**
17 **101 below.**

18
19 **9-2-1016. General services division.**

20
21 (b) For the purpose of this subsection the term
22 "agencies" does not include the University of Wyoming,
23 community college districts, or school districts. It does
24 not include the department of transportation except as to
25 paragraphs (xi), (xii) and (xiii) of this subsection. The
26 department through the general services division shall:

27

1 (viii) Supervise and approve disposition by
2 sale or trade-in of all agencies' property which has been
3 deemed to be no longer cost effective to the state. Real
4 property in excess of forty (40) acres in one (1) tract or
5 valued at fifteen thousand dollars (\$15,000.00) or more
6 shall not be disposed of at less than current appraised
7 value as authorized in accordance with rules of the state
8 building commission. No other property shall be disposed of
9 at less than fair market value either for cash or in
10 exchange for credit upon purchase of new property. All
11 sales shall be public and based upon adequate notice except
12 that state owned motor vehicles may be sold at public or
13 dealer auction and except that for the first thirty (30)
14 days after acquisition, any personal property may be made
15 available to those entities qualifying under federal
16 surplus property guidelines through the state surplus
17 property warehouse. The proceeds of sale, less costs of
18 sale, shall be remitted to the treasurer for the benefit of
19 the fund from which the property was purchased. This
20 paragraph shall not apply to, nor shall the department or
21 the state building commission approve or supervise the
22 disposition of land by the state transportation commission;

23

1 (xi) Secure and maintain insurance or
2 otherwise protect against fire and other perils on all
3 buildings and structures and the contents thereof, and
4 other properties owned by the state of Wyoming or any of
5 its agencies. The insurance shall be in an amount which is
6 adequate to protect the interest of the state of Wyoming
7 and, where appropriate, the interest of the United States;

8
9 ~~(xvii) For the procurement of construction~~
10 ~~of public projects, facilities or structures, be authorized~~
11 ~~to accept the recommendations of agencies on the award or~~
12 ~~rejection and readvertisement of bids based upon the~~
13 ~~qualifications and responsibilities of bidders;~~

14
15 ~~(xviii) In the procurement of construction,~~
16 ~~bidders shall provide a bond or other form of guarantee~~
17 ~~satisfactory to the state of Wyoming as hereafter provided:-~~

18
19 ~~(A) A bid bond or other form of bid~~
20 ~~guarantee satisfactory to the state may be required in an~~
21 ~~amount equal to ten percent (10%) of the aggregate amount~~
22 ~~of the bid or contract when a contract to be awarded under~~
23 ~~the solicitation is expected to exceed one thousand five~~
24 ~~hundred dollars (\$1,500.00). The bond may be provided by a~~

1 ~~surety company authorized to do business in the state of~~
2 ~~Wyoming;~~

3
4 ~~(B) A bid bond or other form of bid~~
5 ~~guarantee satisfactory to the state may be retained by the~~
6 ~~state as surety throughout the term of the awarded contract~~
7 ~~provided the amount of the contract is less than twenty-~~
8 ~~five thousand dollars (\$25,000.00);~~

9
10 ~~(C) Before any contract exceeding~~
11 ~~twenty-five thousand dollars (\$25,000.00) in amount, for~~
12 ~~the construction, alteration or repair of any public~~
13 ~~building or public work or improvement of the state is~~
14 ~~awarded to any person, the person shall furnish to the~~
15 ~~state a performance and payment bond executed by a surety~~
16 ~~company authorized to do business in the state of Wyoming~~
17 ~~or other form of surety satisfactory to the state, in an~~
18 ~~amount equal to one hundred percent (100%) of the contract~~
19 ~~price;~~

20
21 ~~(D) This paragraph does not limit the~~
22 ~~authority of the state to require a performance bond or~~
23 ~~other security in addition to bonds, or in circumstances~~
24 ~~other than the circumstances specified by this subsection;~~

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~~(E) The department may accept bids submitted by persons who combine their bonding capacity in any way so as to meet the bonding requirements of this paragraph.~~

~~(xix) Lease all property for the state in accordance with rules of the state building commission. Leasing of property by the state shall be conducted on a bid and proposal basis with advertising of space needs and square footage in community or local newspapers. Leasing contracts may be entered into by noncompetitive negotiation only if:~~

~~(A) The administrator determines in writing that competitive bidding is not feasible; or~~

~~(B) The lessor is a governmental agency.~~

(xx) Maintain, and repair ~~and replace~~ all state property in accordance with rules of the state building commission;

1 ~~(xxi) Designate the administrator of the~~
2 ~~division to function as secretary to the state building~~
3 ~~commission who will administratively implement the~~
4 ~~commission's rules;~~

5
6 ~~(xxii) Plan for all agency office and other~~
7 ~~space needs and construction projects required for those~~
8 ~~space needs in accordance with the provisions of W.S. 9-5-~~
9 ~~107, 9-5-108 and rules, procedures and criteria adopted~~
10 ~~pursuant to that section.~~

11
12 **9-5-101. State building commission; composition;**
13 **general powers and duties; conflicts of interest.**

14
15 (b) The state building commission shall promulgate
16 rules under which ~~the general services division has~~ it
17 shall have charge and control of the capitol building with
18 respect to its occupancy, repair and maintenance and shall
19 collect all rents arising from the occupancy of the capitol
20 building. All rents collected under this section shall be
21 paid into the general fund.

22
23 (c) No member of the state building commission shall:
24

1 (i) Have a financial interest in any contract
2 entered into or made by the commission; ~~or by the general~~
3 ~~services division;~~

4
5 (ii) Be a surety on any bond conditioned for the
6 performance of any contract entered into or made by the
7 commission; ~~or by the general services division;~~

8
9 (iii) Be an agent of any contractor on any
10 contract entered into or made by the commission. ~~or by the~~
11 ~~general services division.~~

12
13 (d) The state building commission shall employ a
14 secretary who shall administratively implement any rules of
15 the commission adopted under this article and perform such
16 other duties and functions of the commission as may be
17 assigned by the commission. The commission may employ such
18 other staff as authorized by legislative appropriation.

19
20 ***** STAFF COMMENTS *****

21 **The exact parameters of the motion regarding type**
22 **of employment etc. were not set. The following**
23 **are two alternatives.**
24

1 The secretary of the commission shall be employed upon
2 a majority vote of the commission and serve at the pleasure
3 of a majority of the commission. The commission shall
4 establish compensation for its secretary subject to
5 legislative budget authorization. Other employees of the
6 commission shall be subject to rules of the personnel
7 division of the department of administration and
8 information.

9
10 The commission secretary and other employees of the
11 commission shall be subject to rules of the personnel
12 division of the department of administration and
13 information.

14
15 (e) The commission shall adopt rules governing the
16 procurement of all supplies and services required by
17 agencies for the construction of projects, facilities or
18 structures.

19
20 (f) For the procurement of construction of agency
21 projects, facilities or structures, the commission may
22 accept the recommendations of agencies on the award or
23 rejection and readvertisement of bids based upon the
24 qualifications and responsibilities of bidders.

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2 (g) In the procurement of construction, bidders shall
3 provide a bond or other form of guarantee satisfactory to
4 the state of Wyoming as hereafter provided:

5

6 (A) A bid bond or other form of bid
7 guarantee satisfactory to the state may be required in an
8 amount equal to ten percent (10%) of the aggregate amount
9 of the bid or contract when a contract to be awarded under
10 the solicitation is expected to exceed one thousand five
11 hundred dollars (\$1,500.00). The bond may be provided by a
12 surety company authorized to do business in the state of
13 Wyoming;

14

15 (B) A bid bond or other form of bid
16 guarantee satisfactory to the state may be retained by the
17 state as surety throughout the term of the awarded contract
18 provided the amount of the contract is less than twenty-
19 five thousand dollars (\$25,000.00);

20

21 (C) Before any contract exceeding twenty-
22 five thousand dollars (\$25,000.00) in amount, for the
23 construction, alteration or repair of any public building
24 or public work or improvement of the state is awarded to

1 any person, the person shall furnish to the state a
2 performance and payment bond executed by a surety company
3 authorized to do business in the state of Wyoming or other
4 form of surety satisfactory to the state, in an amount
5 equal to one hundred percent (100%) of the contract price;

6
7 (D) This paragraph does not limit the
8 authority of the state to require a performance bond or
9 other security in addition to bonds, or in circumstances
10 other than the circumstances specified by this subsection;

11
12 (E) The commission may accept bids
13 submitted by persons who combine their bonding capacity in
14 any way so as to meet the bonding requirements of this
15 paragraph.

16
17 (h) The commission shall lease all property for the
18 state in accordance with rules of the commission. Leasing
19 of property by the state shall be conducted on a bid and
20 proposal basis with advertising of space needs and square
21 footage in community or local newspapers. The commission
22 may lease acquired property until it is needed. Leasing
23 contracts may be entered into by noncompetitive negotiation
24 only if:

1

2

(i) The secretary of the commission determines
in writing that competitive bidding is not feasible; or

4

5

(ii) The lessor is a governmental agency.

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7

(j) The commission shall replace all state real
property in accordance with rules of the commission.

9

10

(k) The commission shall plan for all agency office
and other space needs and construction projects required
for those space needs in accordance with the provisions of
W.S. 9-5-107, 9-5-108 and rules, procedures and criteria
adopted pursuant thereto.

15

16

(m) For purposes of this article:

17

18

(i) "Agency" means an office, department, board,
commission or operating unit of the executive branch of
state government but does not include the University of
Wyoming, community college districts, school districts or
the department of transportation;

23

1 (ii) "Commission" means the state building
2 commission;

3
4 (iii) "Procurement" means buying, purchasing,
5 renting, leasing or otherwise acquiring any supplies or
6 services for agency capital construction projects,
7 facilities or structures. It also includes all functions
8 that pertain to the obtaining of any such supply or
9 service, including description of requirements, selection
10 and solicitation of sources, preparation and award of
11 contract and all phases of contract administration;

12
13 (iv) "Services" means the furnishing of labor,
14 time or effort by a contractor to an agency. The term does
15 not include employment agreements.

16
17 **9-5-102. State building commission; authority to buy**
18 **and lease property; acceptance of donations, grants and**
19 **devises.**

20
21 (a) In order to obtain building sites for additional
22 office space and state uses and to insure the proper
23 keeping of valuable state records and provide for the
24 expansion of functions of the state, ~~the general services~~

1 ~~division, with the approval of the state building~~
2 ~~commission,~~ may buy, take options to buy and lease property
3 to be used for building sites for future state office
4 buildings. ~~The general services division, with the approval~~
5 ~~of the commission may lease acquired property until it is~~
6 ~~needed.~~ The ~~general services division, with the approval of~~
7 ~~the state building~~ commission, in cooperation with the
8 department of employment, may acquire lands and buildings
9 in the name of the state of Wyoming by purchase, lease
10 agreement, gift or devise to provide suitable quarters for
11 the administration of the Wyoming Employment Security Law
12 and to develop improvements, maintain and repair the lands
13 and buildings.

14

15 (b) To accomplish the purposes of subsection (a) of
16 this section ~~the general services division, with the~~
17 ~~approval of the~~ state building commission, ~~may~~ accept
18 donations, grants-in-aid and devises.

19

20 **9-5-104. State building commission; state office**
21 **buildings; authority to maintain; rental; use of proceeds.**

22

23 (a) The ~~general services division, in accordance with~~
24 ~~rules of the~~ state building commission, ~~may,~~ in accordance

1 with rules adopted by the commission, maintain, operate,
2 lease, manage and equip state office buildings in Wyoming.

3

4 (b) Every department occupying space in a building
5 authorized under subsection (a) of this section, if
6 required to do so by ~~the general services division, in~~
7 ~~accordance with~~ rules of the state building commission,
8 shall pay to the state treasurer an annual rental plus a
9 pro rata share of maintenance, janitorial services,
10 utilities and other overhead costs necessary to maintain
11 the building in as good a condition as reasonable and
12 proper use will permit. Payments shall be made to the state
13 treasurer for deposit into a fund within the internal
14 service fund to be allocated as follows:

15

16 **9-5-106. State building commission; powers relative**
17 **to use of state buildings; rules authorized; exceptions.**

18

19 (b) ~~The secretary to the commission under W.S. 9-2-~~
20 ~~1016(b)(xxi) shall administratively implement any rules of~~
21 ~~the state building commission adopted under this section.~~

22 The director of the department of administration and
23 information may adopt rules and regulations which make
24 violation of rules adopted by the commission under

1 subsection (a) of this section grounds for disciplinary
2 action for any state employee violating the rules of the
3 state building commission regarding operation, management
4 or use of state buildings.

5

6 **9-5-107. State building commission duties and**
7 **responsibilities with respect to state buildings; state**
8 **capital construction needs assessment and priorities.**

9

10 (a) The ~~general services division of the department~~
11 ~~of administration and information shall, subject to the~~
12 ~~direction of the~~ state building commission ~~and~~ shall, with
13 the assistance of ~~other~~ state agencies as necessary,
14 conduct and maintain a comprehensive needs assessment of
15 existing state buildings and of future space requirements
16 for state agencies. The assessment shall be conducted in
17 accordance with rules of the ~~state building~~ commission
18 adopted pursuant to subsection (d) of this section and be
19 designed to provide uniform statewide data describing the
20 condition of state buildings and projecting building
21 longevity and space requirements. Through the
22 identification of building conditions and needs, the
23 assessment shall enable the evaluation of capital
24 construction and renovation requirements for all state

1 buildings. The needs assessment shall be revised annually
2 on or before October 1 of each year. The needs assessment
3 shall specify construction and renovation requirements for
4 the remainder of the current fiscal year and the succeeding
5 four (4) fiscal years.

6
7 (g) The commission shall develop a recommend funding
8 formula for major building and facility repair and
9 replacement for state institutions, for University of
10 Wyoming facilities and for community college facilities.
11 This recommendation shall be based on a formula adopted by
12 the state building commission, which shall be based on the
13 following:

14
15 (i) The gross square footage of buildings and
16 facilities for each category of buildings for state
17 facilities, university facilities, and community college
18 facilities, not to exceed seven (7) building categories for
19 each entity, excluding student housing, the student union
20 and auxiliary services areas funded exclusively through
21 university or community college generated revenues;

22
23 (ii) A multiplier to maintain facilities in fair
24 condition based on criteria from organizations with

1 expertise in this area, such as the National Association of
2 College and University Business Officials;

3
4 (iii) The gross square footage of buildings and
5 the other components of the formula shall otherwise be
6 computed in the same manner as for major maintenance for
7 school facilities under W.S. 21-15-109, including using the
8 most current edition of the R.S. Means construction cost
9 index, as modified to reflect current Wyoming construction
10 costs determined by the department of administration and
11 information, division of economic analysis to calculate
12 replacement cost.

13
14 (h) The commission shall submit recommendations for
15 funding under the maintenance funding formula developed
16 under subsection (g) of this section as provided in W.S. 9-
17 2-1013(d)(ii). As used in this subsection and subsection
18 (g) of this section "major building and facility repair and
19 replacement" means the repair or replacement of complete or
20 major portions of building and facility systems at
21 irregular intervals which is required to continue the use
22 of the building or facility at its original capacity for
23 its original intended use, including for compliance with
24 the Americans with Disabilities Act, and is typically

1 accomplished by contractors due to the personnel demand to
2 accomplish the work in a timely manner, the level of
3 sophistication of the work or the need for warranted work.

4
5 **9-5-108. Development of building projects;**
6 **rehabilitation of building projects.**

7
8 (a) The commission shall, on the basis of a state
9 needs assessment plan or as otherwise directed by the
10 legislature and after consultation with and advice from
11 state agencies and officials, other appropriate agencies
12 and officials and members of the public, identify and
13 select potential projects to be studied for inclusion in
14 the Wyoming public buildings construction program pursuant
15 to the following schedule:

16
17 (iv) After completion of Level III construction,
18 the commission shall turn over the project to the general
19 services division of the department of administration and
20 information for the operation and maintenance of state
21 owned facilities constructed under the direction and
22 control of the commission.

23
24 ***** STAFF COMMENTS *****

1 The following would provide for A&I to continue
2 to implement the procurement of professional
3 services provisions (architects and land
4 surveyors and engineers). The only involvement
5 by the SBC staff would be as provided in the
6 following section. This function is one which
7 might well be entirely moved to the SBC staff.
8 The entire act is shown in single space following
9 the amended provision.

10
11 **9-2-1029. Duties of department.**

12
13 (a) The department in consultation with the secretary
14 of the state building commission shall:

15
16 (i) Develop and maintain approved lists of
17 qualified architects, engineers and land surveyors for
18 selection under this act [§§ 9-2-1027 through 9-2-1033];
19 and

20
21 (ii) Develop and administer notification
22 procedures for obtaining professional services under this
23 act.

24
25 **9-2-1027. Short title.**

26
27 This act [§§ 9-2-1027 through 9-2-1033] is known and may be
28 cited as the "Professional Architectural, Engineering and
29 Land Surveying Services Procurement Act".

30
31 **9-2-1028. Definitions.**
32

1 (a) As used in this act:

2

3 (i) "Agency" means any state office, department, board,
4 commission, institution or other operating entity of the
5 state excluding the University of Wyoming, community
6 college districts, school districts, the Wyoming business
7 council and the Wyoming department of transportation;

8

9 (ii) "Department" means the state department of
10 administration and information;

11

12 (iii) "Firm" means an individual, corporation,
13 partnership, business trust, association, firm or any other
14 legal entity permitted by law to practice in a specified
15 profession;

16

17 (iv) "Principal representative" means the governing board
18 of a department, institution or agency or its designated
19 representative, or, if there is no governing board, the
20 executive head of a department, institution or agency;

21

22 (v) "Professional services" means:

23

24 (A) The practice of architecture pursuant to W.S. 33-4-101
25 through 33-4-117;

26

27 (B) The practice of engineering or land surveying pursuant
28 to W.S. 33-29-114 through 33-29-149.

29

30 (vi) "This act" means W.S. 9-2-1027 through 9-2-1033.

31

32 **9-2-1029. Duties of department.**

33

34 (a) The department shall:

35

36 (i) Develop and maintain approved lists of qualified
37 architects, engineers and land surveyors for selection
38 under this act [§§ 9-2-1027 through 9-2-1033]; and

39

40 (ii) Develop and administer notification procedures for
41 obtaining professional services under this act.

42

43 **9-2-1030. Qualification procedures.**

44

45 (a) Any firm desiring to provide professional services to
46 an agency, shall annually submit to the department and [or]
47 the agency a detailed statement of qualifications and

1 performance data, and any other information required by the
2 department or the agency. The department or the agency may
3 request the firm to update its statement before submission
4 in order to reflect changed conditions in the status of the
5 firm.

6
7 (b) If professional services in an amount exceeding five
8 thousand dollars (\$5,000.00) are required, the department
9 or the agency shall notify all qualified architects,
10 engineers and land surveyors of record who have submitted
11 an annual statement of qualifications and performance data.
12 In addition, the agency or the department shall give
13 statewide notice in a newspaper of statewide circulation at
14 least once each week for four (4) consecutive weeks prior
15 to initiation of selection procedures in accordance with
16 W.S. 9-2-1031. Notification shall contain a general
17 description of the proposed project, and shall indicate the
18 procedures by which interested firms may apply for
19 consideration for a contract to provide professional
20 services for the proposed project.

21
22 **9-2-1031. Selection procedures.**

23
24 (a) For each proposed project, the principal
25 representative of the agency for which the project is
26 proposed shall evaluate current statements of
27 qualifications and performance data of firms on file with
28 the department or the agency, together with any
29 applications submitted by other qualified firms, and shall
30 select not less than three (3) firms considered qualified
31 to perform the required professional services.
32 Consideration in each selection process by the principal
33 representative shall be based upon the ability of
34 professional personnel, past performance, willingness to
35 meet time requirements, location, current and projected
36 work loads, the volume of work previously awarded to the
37 firm by the agency, and the equitable distribution of
38 contracts among qualified firms. The agency shall provide a
39 complete description of the work to the firms selected.
40 These firms shall submit an unpriced proposal to do the
41 work.

42
43 (b) In addition to the requirements of subsection (a) of
44 this section, for any professional services fee estimated
45 by the agency to exceed twenty-five thousand dollars
46 (\$25,000.00) or, for any project the total cost of which is
47 estimated to exceed one hundred thousand dollars

1 (\$100,000.00), the principal representative shall interview
2 not less than three (3) firms selected from those which
3 have submitted proposals to do the work. The interview
4 shall be recorded and include discussion of each firm's
5 projections of project costs, qualifications, approaches to
6 the project, ability to furnish required professional
7 services, use of alternative methods for furnishing
8 required professional services and an estimated fee based
9 on the agency's description of the work. The estimated fee
10 may be used as a basis, along with the qualifications
11 listed in subsection (a) of this section, for selection by
12 the principal representative of the most qualified firm for
13 contract negotiations. If unsatisfied with the results of
14 such interviews, the principal representative may select
15 not less than three (3) additional firms for interviews as
16 provided by subsection (a) of this section.

17
18 (c) In addition to the requirements of subsection (a) of
19 this section, for any professional services fee estimated
20 by the agency to be twenty-five thousand dollars
21 (\$25,000.00) or less, or for any project the total cost of
22 which is estimated to be one hundred thousand dollars
23 (\$100,000.00) or less, the principal representative shall
24 select three (3) firms from which a project specific
25 submittal shall be requested. The information provided by
26 the firm shall include an estimated fee and preliminary
27 scope of services based on the agency's description of the
28 work. The estimated fee may be used as a basis along with
29 the qualifications listed in subsection (a) of this
30 section, for selection by the principal representative of
31 the most qualified firm for contract negotiations.

32
33 (d) Nothing in this section prohibits a principal
34 representative from determining that fewer than three (3)
35 firms with current statements on file or which have
36 submitted applications before selection are qualified to
37 perform the required professional services. If a principal
38 representative makes that determination, subsections (b)
39 and (c) of this section apply with respect to the firms the
40 principal representative considers qualified.

41
42 (e) The department, in conjunction with the agencies,
43 shall adopt rules and regulations necessary to implement
44 the selection process provided by this section.

45
46 **9-2-1032. Contract procedure.**

47

1 (a) After completing the selection process, the principal
2 representative shall negotiate a written contract with the
3 selected firm as determined by W.S. 9-2-1031 for the
4 provision of services. The principal representative shall
5 consider the estimated value, scope, complexity and
6 professional nature of the services to be rendered when
7 determining a reasonable compensation.

8
9 (b) If the principal representative is unable to negotiate
10 a satisfactory contract with the selected firm at a price
11 he determines fair and reasonable, negotiations with that
12 firm shall be terminated. The principal representative
13 shall then begin negotiations with the firm ranked second
14 in order of preference pursuant to W.S. 9-2-1031. If the
15 principal representative fails to negotiate a contract with
16 the second ranked firm, he shall terminate negotiations.
17 The principal representative shall then begin negotiations
18 with the firm ranked third in order of preference.

19
20 (c) If the principal representative is unable to negotiate
21 a satisfactory contract with any of the selected firms, he
22 shall:

23
24 (i) Select additional firms in order of their competence
25 and qualifications and continue negotiations in accordance
26 with this section and W.S. 9-2-1031, until a contract is
27 reached; or

28
29 (ii) Review the contract under negotiation to determine
30 the possible cause for failure to achieve a negotiated
31 contract.

32
33 (d) Each contract for professional services entered into
34 by the principal representative shall contain a prohibition
35 against gratuities, kickbacks and contingent fees. The
36 architect, registered land surveyor or professional
37 engineer shall certify under oath that he has not in any
38 way been involved in any gratuities, kickbacks, or
39 contingent fees in connection with his selection or
40 ultimate performance of this contract.

41
42 (e) Each contract for professional services entered into
43 by the principal representative shall contain a prohibition
44 against payment based upon a percentage of the construction
45 cost.

46

1 (f) This act [§§ 9-2-1027 through 9-2-1033] shall not
2 prohibit continuing contracts between any person providing
3 professional services and any agency.

4
5 **9-2-1033. Prohibited acts; civil penalty; initiation of**
6 **action.**

7
8 (a) No person, including any agency official or employee,
9 shall:

10
11 (i) In any way be involved in any gratuities, kickbacks,
12 or contingent fees in connection with the selection
13 procedure set forth in this act [§§ 9-2-1027 through 9-2-
14 1033];

15
16 (ii) If providing professional services, pay any fee,
17 commission, gift or other consideration contingent upon the
18 award of a contract for professional services pursuant to
19 this act.

20
21 (b) Any person violating subsection (a) of this section or
22 subsection (d) of W.S. 9-2-1032 is liable for a penalty not
23 to exceed five thousand dollars (\$5,000.00). The penalty
24 may be recovered in a civil action and damages shall be
25 assessed by the court.

26
27 (c) Any action pursuant to this section shall be initiated
28 in Laramie county by the attorney general.

29

30 ***** STAFF COMMENTS *****
31 **The following three sections are purely**
32 **conforming to numbering changes.**
33

34 **16-6-112. Contractor's bond or other guarantee; when**
35 **required; conditions; amount; approval; filing; enforcement**
36 **upon default.**

37

38 (a) Except as provided under W.S. ~~9-2-1016(b)(xviii)~~
39 9-5-101(g), any contract entered into with the state, any

1 county, city, town, school district or other political
2 subdivision of the state for the erection, construction,
3 alteration, repair or addition to any public building or
4 other public structure or for any public work or
5 improvement and the contract price exceeds seven thousand
6 five hundred dollars (\$7,500.00), shall require any
7 contractor before beginning work under the contract to
8 furnish the state or any political subdivision, as
9 appropriate, a bond or if the contract price is one hundred
10 thousand dollars (\$100,000.00) or less, any other form of
11 guarantee approved by the state or the political
12 subdivision. The bond or other form of guarantee shall be:

13

14 **19-7-103. Adjutant general; appointment; rank;**
15 **removal; duties and qualifications.**

16

17 (a) The governor shall appoint a qualified adjutant
18 general to be chief of staff. He shall have the rank the
19 governor designates and may be removed by the governor as
20 provided in W.S. 9-1-202. A prospective appointee shall
21 possess the following qualifications:

22

23 (xii) He may dispose of lands or buildings under
24 the control of the department by sale, exchange or other

1 transfer. He may execute deeds for such transfers in the
2 name of the state. Money from such sale, exchange or
3 transfer may be utilized for the acquisition of additional
4 lands within the same budget biennium. Any such sale,
5 exchange or other transfer shall be conducted in accordance
6 with the provisions of W.S. 36-9-101, 36-9-102 and 36-9-104
7 through 36-9-120, except these provisions of W.S. title 36,
8 chapter 9 shall not apply when both the title to the land
9 and to all buildings thereon is solely in the name of the
10 department or any division of the department and the
11 provisions of W.S. ~~9-2-1016(b)(viii)~~ Conform if a change is
12 made to (viii) also shall not apply when both the title to
13 the land and to all buildings thereon is solely in the name
14 of the department or any division of the department;

15

16 **24-2-115. Program for informational signing by**
17 **businesses, main street or historic sites; department**
18 **duties and responsibilities; contracting of duties; fees.**

19

20 (b) In establishing the program under this section,
21 the department shall by rule and regulation:

22

23 (v) Provide for the administration of the
24 program and subject to W.S. 9-2-1016(b) and 9-5-101, may

1 establish necessary procedures for contracting services for
2 the construction, erection and maintenance of highway
3 informational signing pursuant to this section.

4

5 **Section 2.** W.S. 9-2-1016(b) (xvii) through (xix) and
6 (xxi) through (xxii) is repealed.

7

8 **Section 3.** Beginning with the effective date of this
9 act through the fiscal biennium ending June 30, 2006, ten
10 (10) full time positions constituting the construction
11 management section within the authorized budget of the
12 department of administration and information together with
13 the budget associated for those positions are transferred
14 to the state building commission. The positions shall act
15 as staff to the commission in accordance with this act.
16 The functions assigned to the general services division of
17 the department of administration and information under 2004
18 Session Laws Chapter 95, section 307 shall be assumed by
19 the state building commission and staff transferred to the
20 commission under this act. The state building commission
21 shall prepare and submit a budget in accordance with W.S.
22 9-2-1010 through 9-2-1014.1 for the fiscal biennium
23 commencing July 1, 2006.

24

1 **Section 4.** This act is effective July 1, 2005.

2 a formula similar to that used for determining major
3 maintenance payments to the public schools, but in amounts
4 to maintain the facilities in fair condition:

5

6 ***** STAFF COMMENTS *****

7 **The repealed provision follows:**

8

9 **9-2-1016. General services division.**

10

11 (b) For the purpose of this subsection the term "agencies"
12 does not include the University of Wyoming, community
13 college districts, or school districts. It does not include
14 the department of transportation except as to paragraphs
15 (xi), (xii) and (xiii) of this subsection. The department
16 through the general services division shall:

17

18 ~~(xxi) Designate the administrator of the division to~~
19 ~~function as secretary to the state building commission who~~
20 ~~will administratively implement the commission's rules;~~

21

22

23

(END)

1