

HOUSE BILL NO. HB0299

Attorney general appointment.

Sponsored by: Representative(s) Childers, Gingery, Illoway
and Jones and Senator(s) Meier

A BILL

for

1 AN ACT relating to the attorney general; providing for the
2 appointment of the attorney general by the five elected
3 state officials; repealing provision for interim
4 appointment; amending certain provisions regarding actions
5 taken by the attorney general pursuant to the direction of
6 the governor; making conforming amendments; and providing
7 for an effective date.

8

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

10

11 **Section 1.** W.S. 9-1-601(a), 9-1-602, 9-1-603(b) and
12 (c), 9-1-605(b) through (d), 9-1-608(a) and (b),
13 9-1-611(c), 9-1-633(a) and (b)(intro), 9-1-636(b) and
14 (c)(intro), 9-4-218(a)(iii), 28-12-103 and 35-7-1004 are
15 amended to read:

16

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

3
4 (a) The attorney general of the state of Wyoming shall
5 be appointed by the ~~governor~~ five (5) elected state
6 officials with the advice and consent of the senate. ~~in~~
7 ~~accordance with~~ The attorney general shall be appointed for
8 a term of four (4) years commencing as specified in W.S.
9 28-12-103 with the appointment made after the election at
10 which the five (5) elected state officials are elected. The
11 elected state officials shall submit the appointment as
12 provided in W.S. 28-12-101 through 28-12-103 ~~and~~ for
13 gubernatorial appointments. The attorney general may be
14 removed ~~by the governor as provided in W.S. 9-1-202~~ at the
15 pleasure of a majority of the five (5) elected state
16 officials.

17
18 **9-1-602. Vacancy in office.**

19
20 In case of a vacancy in the office of attorney general the
21 ~~governor~~ five (5) elected state officials shall appoint a
22 qualified person to fill the vacancy in accordance with the
23 provisions of W.S. 28-12-101(b).

24

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

5

6 (b) With the approval of the ~~governor~~ five (5) elected
7 state officials the attorney general may retain qualified
8 practicing attorneys to prosecute fee-generating suits for
9 the state if expertise in a particular field is desirable.

10

11 (c) Upon the failure or refusal of any district or
12 county attorney to act in any criminal or civil case or
13 matter in which the county, state or any agency thereof is
14 a party, or has an interest, the attorney general may, at
15 the request of the board of county commissioners of the
16 county involved or of the district judge of the judicial
17 district involved, act on behalf of the county, state or
18 any agency thereof, if after a thorough investigation the
19 action is deemed advisable by the attorney general. The
20 cost of investigation and the cost of any prosecution
21 arising therefrom shall be paid out of the general fund of
22 the county where the investigation and prosecution take
23 place. The attorney general shall also, upon direction of
24 the ~~governor~~ five (5) elected state officials, investigate

1 any matter in any county of the state in which the county,
2 state or any agency thereof may be interested. After
3 investigation, the attorney general shall submit a report
4 of the investigation to the ~~governor~~ five (5) elected state
5 officials and to the district or county attorney of each
6 county involved and may take such other action as he deems
7 appropriate.

8

9 **9-1-605. Approval of public securities and official**
10 **bonds; water rights proceedings; investigation of**
11 **misconduct of county official; report to governor;**
12 **commencement of action.**

13

14 (b) Under the direction of the ~~governor~~ five (5)
15 elected state officials the attorney general shall
16 institute and pursue proceedings to maintain the state's
17 and its citizens' rights in the waters of interstate
18 streams.

19

20 (c) Upon representation to the ~~governor~~ attorney
21 general of misconduct or malfeasance in office or the
22 commission of a crime by any county officer in the state
23 and if the ~~governor~~ attorney general believes the ends of
24 justice demand or the matter will not be properly

1 investigated and prosecuted by the sheriff and by the
2 district attorney of the county, the ~~governor may direct~~
3 ~~the~~ attorney general ~~to~~ may investigate the case.

4
5 (d) Upon completion of the investigation, the attorney
6 general shall report the results of the investigation and
7 his recommendations to the ~~governor~~ five (5) elected state
8 officials. If the ~~governor~~ five (5) elected state officials
9 and the attorney general determine that the attorney
10 general should institute a criminal or civil action, the
11 attorney general shall commence the action. The attorney
12 general shall have the authority and duty vested in
13 district attorneys in this state.

14
15 **9-1-608. Assistant attorneys general.**

16
17 (a) With the approval of the ~~governor~~ five (5) elected
18 state officials, the attorney general may appoint assistant
19 attorneys general necessary for the efficient operation of
20 his office. Each assistant attorney general shall be a
21 member in good standing of the Wyoming bar and shall serve
22 at the pleasure of the attorney general. The assistants
23 shall act under the direction of the attorney general and
24 his deputies. The attorney general, his deputies or his

1 assistants may appear in any courts of the state or the
2 United States and prosecute or defend on behalf of the
3 state. An appearance by the attorney general or his staff
4 does not waive the sovereign immunity of the state.

5
6 (b) With the approval of the ~~governor~~ five (5) elected
7 state officials the attorney general may appoint special
8 assistant attorneys general for any purposes. A person
9 shall not be employed as an attorney or legal counsel by
10 any department, board, agency, commission or institution of
11 the state, or represent the state in that capacity, except
12 by the written appointment of the attorney general.
13 Written appointment of the attorney general shall not be
14 required for the employment of legal counsel by elected
15 state officials.

16
17 **9-1-611. Division of criminal investigation; created;**
18 **definitions; director; appointment; qualifications.**

19
20 (c) With the approval of the ~~governor~~ five (5) elected
21 state officials, the attorney general shall appoint a
22 director who is the chief administrative officer and chief
23 agent of the division.

24

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

4
5 (a) A director of the Wyoming law enforcement academy
6 shall be appointed by the attorney general with the consent
7 of the ~~governor~~ five (5) elected state officials. The
8 director shall serve at the pleasure of the attorney
9 general. He shall have administrative and operational
10 experience in criminal justice and such other
11 qualifications as are satisfactory to the attorney general.

12
13 (b) The director may employ assistants, instructors
14 and other personnel as approved by the attorney general.
15 ~~with the consent of the governor.~~ The attorney general may
16 appoint the director as a peace officer, if qualified
17 pursuant to W.S. 9-1-701 through 9-1-707. The director may
18 appoint full-time staff instructors who qualify pursuant to
19 W.S. 9-1-701 through 9-1-707 to perform as peace officers.
20 Persons appointed as peace officers pursuant to this
21 subsection shall be considered peace officers only:

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~~ five (5) elected
6 state officials, the attorney general shall appoint a
7 director who is the chief administrative officer of the
8 division. The director is responsible to the attorney
9 general for the operation of the division and shall serve
10 at the pleasure of the 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 **9-4-218. Federal natural resource policy account**
17 **created; purposes.**

18
19 (a) There is created within the special revenue fund
20 an account known as the "federal natural resource policy
21 account." Funds within the account may be expended by the
22 governor on behalf of the state of Wyoming and its local
23 governments, to take any of the actions specified in this
24 subsection in response to federal land, water, air, mineral

1 and other natural resource policies which may affect the
2 tax base of the state, wildlife management, state species,
3 recreation, private property rights, water rights or
4 leasehold rights. Funds also may be expended for preparing
5 and participating in environmental impact statements and
6 environmental assessments, including analysis of economic
7 or social and natural or physical environmental effects on
8 the human environment. The governor may expend funds from
9 the federal natural resource policy account for:

10
11 (iii) Investigating, initiating, intervening or
12 otherwise participating in litigation, or taking any other
13 legal action, that furthers the purposes of this
14 subsection. In carrying out this subsection, the attorney
15 general, with approval of the ~~governor~~ five (5) elected
16 state officials, may retain qualified practicing attorneys
17 to act for the state, including providing representation in
18 other forums with the federal government or other state
19 governments that may preclude or resolve any outstanding
20 issues or attempting to influence pertinent federal
21 legislation;

22
23 **28-12-103. Expiration date of appointees' terms.**
24

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

14

15 **35-7-1004. Personnel to administer provisions.**

16

17 The attorney general by and with the consent of the
18 ~~governor~~ five (5) elected state officials may employ such
19 personnel as necessary to administer this act. Such
20 personnel shall serve at the pleasure of the attorney
21 general at such compensation as may be approved by the
22 Wyoming personnel division. Said personnel shall be
23 assigned such duties as may be necessary to assist the
24 commissioner in the performance of his responsibilities

1 under this act for the efficient operation of the work of
2 the office.

3

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

5

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

10

11

(END)