

HOUSE BILL NO. HB0289

State legal action-NEPA and ESA.

Sponsored by: Representative(s) Childers, Brown, Cohee,
Olsen, Philp and Simpson and Senator(s)
Anderson, J., Coe, Jennings and Vasey

A BILL

for

1 AN ACT relating to federal natural resource policy;
2 providing for the investigation and initiation of legal
3 action; providing the attorney general the ability to seek
4 legal remedies as specified; providing an appropriation;
5 authorizing additional positions; and providing for an
6 effective date.

7

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

9

10 **Section 1.**

11

12 (a) The attorney general may investigate potential
13 litigation against the federal government of the United
14 States for the reasons provided in this section or, in the
15 alternative, may initiate litigation, file an amicus curiae
16 brief or intervene as provided by state or federal law in

1 any existing lawsuit concerning essentially the same
2 issues. When considering whether to initiate or intervene
3 in litigation, the attorney general shall give precedence
4 to lawsuits whose venue is within Wyoming, but may act in
5 lawsuits filed anywhere in the United States. The attorney
6 general may retain by contract private qualified practicing
7 attorneys to represent the state of Wyoming as provided in
8 W.S. 9-4-218(a).

9
10 (b) All costs of the investigation or litigation
11 shall be provided from the federal natural resource policy
12 account pursuant to W.S. 9-4-218, but nothing in this
13 section shall be construed to prohibit the state, through
14 the attorney general or a private attorney representing the
15 state under contract, from seeking reasonable costs and
16 attorney's fees from any responding party in litigation.

17
18 (c) The investigation or litigation initiated by the
19 attorney general under this section shall include
20 determination of whether the state of Wyoming is entitled
21 to damages or other relief as provided by state or federal
22 laws or rules or regulations as a result of the failure of
23 any federal government agency to follow the requirements of
24 the National Environmental Policy Act, the Endangered

1 Species Act or any other act placing procedural
2 requirements on the federal government agency with respect
3 to natural resources issues. Specifically, the attorney
4 general is authorized to request relief in the form of
5 judicial direction requiring federal agencies to
6 incorporate sections 101, 103 and 104 of the National
7 Environmental Policy Act in decisions and administration
8 under all federal natural resources laws. The attorney
9 general is authorized to take any legal action to pursue
10 other claims against the federal government that may arise
11 in the course of preparing the efforts authorized by this
12 section.

13

14 (d) The investigation initiated under this section
15 shall consider whether the agencies have met the
16 requirements of NEPA:

17

18 (i) To create and maintain conditions under
19 which man and nature can exist in productive harmony;

20

21 (ii) To provide documentation under section 103;
22 and

23

1 (iii) To coordinate with and act upon
2 recommendations of state agencies.

3

4 (e) The attorney general shall:

5

6 (i) Monitor and identify monetary compensation
7 received from federal agencies under W.S. 9-4-218 and this
8 section;

9

10 (ii) In cooperation with other relevant state
11 agencies, determine the benefits accrued to the state from
12 actions undertaken pursuant to W.S. 9-4-218 and this
13 section; and

14

15 (iii) On or before January 1, 2008, report to
16 the joint travel, recreation, wildlife and cultural
17 resources interim committee and the joint appropriations
18 interim committee on duties assigned under paragraphs (i)
19 and (ii) of this subsection.

20

21 **Section 2.**

22

23 (a) There is appropriated two hundred fifty thousand
24 dollars (\$250,000.00), or as much thereof as is necessary,

1 for the period beginning July 1, 2007 and ending June 30,
2 2008, from the general fund to the office of attorney
3 general for purposes of this act.

4

5 (b) The office of the attorney general is authorized
6 three (3) full-time equivalent positions to implement the
7 purposes of this act. The attorney general shall determine
8 the position classifications necessary to implement this
9 act.

10

11 **Section 3.** This act is effective July 1, 2007.

12

13 (END)