

SENATE FILE NO. SF0051

Elected officials-legal representation.

Sponsored by: Management Council

A BILL

for

1 AN ACT relating to administration of government;
 2 authorizing state elected officials to employ their own
 3 legal counsel; specifying duties of the legal counsel;
 4 modifying duties of the office of the attorney general;
 5 providing a definition; conforming provisions; and
 6 providing for an effective date.

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

9

10 **Section 1.** W.S. 9-1-307 is created to read:

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12 **9-1-307. Secretary of state; employment of legal**
 13 **counsel.**

14

15 The secretary of state may employ legal counsel to review
 16 contracts entered into by the secretary of state in his
 17 official capacity and to perform other duties assigned by

1 the secretary of state. Nothing in this section prohibits
2 the secretary of state from using the services of the
3 attorney general's office.

4

5 **Section 2.** W.S. 1-35-103(a), 8-1-102(a) by creating a
6 new paragraph (xii), 9-1-403(c) by creating a new paragraph
7 (viii), 9-1-409 by creating a new subsection (d),
8 9-1-603(a) by creating a new paragraph (viii), 9-1-608(b)
9 and 21-2-202(a)(xix)(G), (H) and by creating a new
10 subparagraph (J) are amended to read:

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12 **1-35-103. Violation of state contracts to be reported**
13 **to attorney general; investigation; action to recover**
14 **damages; employment of special assistants.**

15

16 (a) Any officer, board or commission of the state of
17 Wyoming, or their legal counsel, responsible for the
18 enforcement of any contract between the state of Wyoming
19 and any person, having reason to believe that there has
20 been a violation of the terms of the contract to the damage
21 of the state of Wyoming, shall report the matter to the
22 attorney general of the state of Wyoming. The attorney
23 general shall make such investigation of the matter as is
24 necessary. Upon completion of the investigation and finding

1 of probable damages to the state of Wyoming, the attorney
2 general may bring suit in any court of competent
3 jurisdiction to recover all damages that the state of
4 Wyoming may have incurred by reason of the breach of
5 contract, or for any money or other property that may be
6 due on the contract. Subject to the governor's approval he
7 may employ specially qualified assistants or counsel to aid
8 in any investigation of such action.

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10 **8-1-102. Definitions.**

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12 (a) As used in the statutes unless the legislature
13 clearly specifies a different meaning or interpretation or
14 the context clearly requires a different meaning:

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16 (xii) "Elected state official" means the
17 governor, secretary of state, state auditor, state
18 treasurer and superintendent of public instruction.

19

20 **9-1-403. State auditor; duties; prohibited acts;**
21 **powers; investigative subpoenas.**

22

23 (c) The state auditor may:

24

1 (viii) Employ legal counsel to review contracts
2 entered into by the state auditor in his official capacity
3 and perform other duties as assigned by the state auditor.
4 Nothing in this paragraph prohibits the state auditor from
5 using the services of the attorney general's office.

6
7 **9-1-409. State treasurer; duties generally; demand**
8 **accounts; state revenues paid to treasurer.**

9
10 (d) The state treasurer may employ legal counsel to
11 review contracts entered into by the state treasurer in his
12 official capacity and perform other duties as assigned by
13 the state treasurer. Nothing in this subsection prohibits
14 the state treasurer from using the services of the attorney
15 general's office.

16
17 **9-1-603. Duties generally; retention of qualified**
18 **practicing attorneys; matters in which county or state is**
19 **party or has interest; assistance to county and district**
20 **attorneys in felony trials.**

21
22 (a) The attorney general shall:
23

1 (viii) Approve or disapprove any contract
2 submitted to him for review within thirty (30) days of
3 submission.

4
5 **9-1-608. Assistant attorneys general.**

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

16
17 **21-2-202. Duties of the state superintendent.**

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19 (a) In addition to any other duties assigned by law,
20 the state superintendent shall:

21
22 (xix) Serve as the state agency to accept all
23 federal funds for aid to education, except as provided in
24 W.S. 21-2-307 and 21-2-601, and as the agency to administer

1 or supervise the administration of any state plan
2 established or federal funds subject to federal
3 requirements. Each acceptance is restricted in its effect
4 to the specific situation involved. The state
5 superintendent may:

6

7 (G) Give technical advice and assistance to
8 any local educational agency in connection with that agency
9 obtaining federal funds; ~~and~~

10

11 (H) Take any other action as may be
12 necessary to secure the benefits of the federal statute to
13 the schools of this state. Nothing in this paragraph shall
14 be construed as conferring any authority to the state
15 superintendent with respect to the University of Wyoming or
16 the various community colleges of the state; ~~and~~

17

18 (J) Employ legal counsel to review
19 contracts entered into by the state superintendent in his
20 official capacity and perform other duties as assigned by
21 the state superintendent. Nothing in this subparagraph
22 prohibits the state superintendent from using the services
23 of the attorney general's office.

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1 **Section 3.** This act is effective July 1, 2004.

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(END)