

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 accordingly; providing a definition; conforming provisions;
 6 and 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 and approve contracts entered into by the secretary of
 17 state in his official capacity and to perform other duties

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

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

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11 **1-35-103. Violation of state contracts to be reported**
12 **to attorney general; investigation; action to recover**
13 **damages; employment of special assistants.**

14

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

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

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9 **8-1-102. Definitions.**

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

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

18

19 **9-1-403. State auditor; duties; prohibited acts;**
20 **powers; investigative subpoenas.**

21

22 (b) The state auditor shall not draw warrants:

23

1 (v) For payment on a contract for professional
2 consultant or other services unless the agency has
3 certified that the contract for the services has been
4 reduced to writing before the services are performed, and
5 that the contract is in compliance with procedures of the
6 attorney general, is approved by the attorney general, and
7 is filed with and approved by the department of
8 administration and information. For payment on a contract
9 for professional or other services entered into by the
10 department of transportation, filing of the contract with
11 and approval by the department of administration and
12 information and approval by the attorney general is not
13 required, however the attorney general shall first review
14 the contract if the contract is over twenty thousand
15 dollars (\$20,000.00). For payment on a contract for
16 professional or other services entered into by an elected
17 state official, approval by the attorney general is not
18 required if the contract has been approved by legal counsel
19 employed by the elected state official;

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21 (c) The state auditor may:

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23 (viii) Employ legal counsel to review and
24 approve contracts entered into by the state auditor in his

1 official capacity and perform other duties as assigned by
2 the state auditor. Nothing in this paragraph prohibits the
3 state auditor from using the services of the attorney
4 general's office.

5
6 **9-1-409. State treasurer; duties generally; demand**
7 **accounts; state revenues paid to treasurer.**

8
9 (d) The state treasurer may employ legal counsel to
10 review and approve contracts entered into by the state
11 treasurer in his official capacity and perform other duties
12 as assigned by the state treasurer. Nothing in this
13 subsection prohibits the state treasurer from using the
14 services of the attorney general's office.

15
16 **9-1-608. Assistant attorneys general.**

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18 (b) With the approval of the governor the attorney
19 general may appoint special assistant attorneys general for
20 any purposes. A person shall not be employed as an attorney
21 or legal counsel by any department, board, agency,
22 commission or institution of the state, or represent the
23 state in that capacity, except by the written appointment
24 of the attorney general. Written appointment of the

1 attorney general shall not be required for the employment
2 of legal counsel by elected state officials.

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4 **21-2-202. Duties of the state superintendent.**

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

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9 (xix) Serve as the state agency to accept all
10 federal funds for aid to education, except as provided in
11 W.S. 21-2-307 and 21-2-601, and as the agency to administer
12 or supervise the administration of any state plan
13 established or federal funds subject to federal
14 requirements. Each acceptance is restricted in its effect
15 to the specific situation involved. The state
16 superintendent may:

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18 (G) Give technical advice and assistance to
19 any local educational agency in connection with that agency
20 obtaining federal funds;~~and~~

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22 (H) Take any other action as may be
23 necessary to secure the benefits of the federal statute to
24 the schools of this state. Nothing in this paragraph shall

1 be construed as conferring any authority to the state
2 superintendent with respect to the University of Wyoming or
3 the various community colleges of the state; ~~and~~ and

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5 (J) Employ legal counsel to review and
6 approve contracts entered into by the state superintendent
7 in his official capacity and perform other duties as
8 assigned by the state superintendent. Nothing in this
9 subparagraph prohibits the state superintendent from using
10 the services of the attorney general's office.

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

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(END)