

HOUSE BILL NO. HB0087

Attorney general-elected official.

Sponsored by: Representative(s) Illoway, Anderson, R.,
Prosser and Tipton and Senator(s) Burns and
Meier

A BILL

for

1 AN ACT relating to the attorney general; providing for the
2 election of the attorney general; setting attorney
3 general's term at four years; providing for filling a
4 vacancy in the position; repealing provision for interim
5 appointment; providing for application of ethics and
6 disclosure act to the office of the attorney general;
7 providing for application of term limits to the attorney
8 general; amending certain provisions regarding actions
9 taken by the attorney general pursuant to the direction of
10 the governor; making conforming amendments; and providing
11 for an effective date.

12

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

14

15 **Section 1.** W.S. 8-1-102(a) by creating a new
16 paragraph (xii), 9-1-601(a) and (c), 9-1-602, 9-1-603(b)

1 and (c), 9-1-604, 9-1-605(b) through (d), 9-1-608(a) and
2 (b), 9-1-611(c), 9-1-633(a), 9-1-636(b) and (c)(intro),
3 9-13-102(a)(xii)(A) and (xvi), 9-13-108(a)(intro),
4 22-2-105(a)(ii)(intro), 22-5-103(a)(i), 22-6-117(a) by
5 creating a new paragraph (vi) and renumbering (vi) through
6 (xi) as (vii) through (xii), 28-12-103 and 35-7-1004 are
7 amended to read:

8

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

10

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:

14

15 (xii) "Five (5) state elected officials" or
16 "five (5) elected state officers" means the governor,
17 secretary of state, state auditor, state treasurer and
18 superintendent of public instruction.

19

20 **9-1-601. Appointment; term; removal; special**
21 **assistant for legislative affairs; qualifications.**

22

23 (a) Until the term of office commences for the
24 general election in 2006, the attorney general of the state

1 of Wyoming shall be appointed by the governor with the
2 advice and consent of the senate in accordance with W.S.
3 28-12-101 through 28-12-103 and may be removed by the
4 governor as provided in W.S. 9-1-202. Beginning at the
5 general election in 2006, the attorney general shall be
6 elected in a statewide election for a term of four (4)
7 years.

8
9 (c) ~~Prior to his~~ To be eligible for appointment or
10 election, the attorney general shall have been a practicing
11 attorney for at least four (4) years, ~~At the date of~~
12 ~~appointment, he~~ shall be in good standing in the courts of
13 record of this state and shall be a resident and elector of
14 the state.

15

16 **9-1-602. Vacancy in office.**

17

18 In case of a vacancy in the office of attorney general
19 appointed under W.S. 9-1-601(a), the governor shall appoint
20 a qualified person to fill the vacancy in accordance with
21 the provisions of W.S. 28-12-101(b). A vacancy in the
22 office of an elected attorney general shall be filled as
23 provided by W.S. 22-18-111. Appointments to fill a vacancy
24 shall be subject to senate confirmation. If the senate

1 fails to confirm the person appointed to fill the vacancy
2 of an elected attorney general, the procedure specified in
3 W.S. 22-18-111 shall be repeated and the governor shall
4 appoint a qualified person to fill the vacancy in
5 accordance with the provisions of W.S. 28-12-101(b).

6
7 **9-1-603. Duties generally; retention of qualified**
8 **practicing attorneys; matters in which county or state is**
9 **party or has interest; assistance to county and district**
10 **attorneys in felony trials.**

11
12 (b) ~~With the approval of the governor~~ The attorney
13 general may retain qualified practicing attorneys to
14 prosecute fee-generating suits for the state if expertise
15 in a particular field is desirable.

16
17 (c) Upon the failure or refusal of any district or
18 county attorney to act in any criminal or civil case or
19 matter in which the county, state or any agency thereof is
20 a party, or has an interest, the attorney general may, at
21 the request of the board of county commissioners of the
22 county involved or of the district judge of the judicial
23 district involved, act on behalf of the county, state or
24 any agency thereof, if after a thorough investigation the

1 action is deemed advisable by the attorney general. The
2 cost of investigation and the cost of any prosecution
3 arising therefrom shall be paid out of the general fund of
4 the county where the investigation and prosecution take
5 place. The attorney general ~~shall~~may also, ~~upon direction~~
6 ~~of the governor,~~ investigate any matter in any county of
7 the state in which the county, state or any agency thereof
8 may be interested. After investigation, the attorney
9 general shall submit a report of the investigation ~~to the~~
10 ~~governor and~~ to the district or county attorney of each
11 county involved and may take such other action as he deems
12 appropriate.

13

14 **9-1-604. Office in state capitol building; private**
15 **practice prohibited; exception.**

16

17 The attorney general shall keep an office in the state
18 capitol building, shall not open an office elsewhere and
19 shall not engage in any private practice except to
20 consummate business pending at the time of his appointment
21 or election if not in conflict with the duties of his
22 office.

23

1 **9-1-605. Approval of public securities and official**
2 **bonds; water rights proceedings; investigation of**
3 **misconduct of county official; commencement of action.**

4
5 (b) ~~Under the direction of the governor~~ The attorney
6 general shall institute and pursue proceedings to maintain
7 the state's and its citizens' rights in the waters of
8 interstate streams.

9
10 (c) Upon representation to the ~~governor~~ attorney
11 general of misconduct or malfeasance in office or the
12 commission of a crime by any county officer in the state
13 and if the ~~governor~~ attorney general believes the ends of
14 justice demand or the matter will not be properly
15 investigated and prosecuted by the sheriff and by the
16 district attorney of the county, the ~~governor may direct~~
17 ~~the~~ attorney general ~~to~~ may investigate the case.

18
19 (d) Upon completion of the investigation, the
20 attorney general ~~shall report the results of the~~
21 ~~investigation and his recommendations to the governor. If~~
22 ~~the governor and the attorney general determine that the~~
23 ~~attorney general should~~ may institute a criminal or civil
24 action, ~~the attorney general shall commence the action~~ as

1 he determines appropriate. The attorney general shall have
2 the authority and duty vested in district attorneys in this
3 state.

4

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

6

7 (a) ~~With the approval of the governor,~~ The attorney
8 general may appoint assistant attorneys general necessary
9 for the efficient operation of his office. Each assistant
10 attorney general shall be a member in good standing of the
11 Wyoming bar and shall serve at the pleasure of the attorney
12 general. The assistants shall act under the direction of
13 the attorney general and his deputies. The attorney
14 general, his deputies or his assistants may appear in any
15 courts of the state or the United States and prosecute or
16 defend on behalf of the state. An appearance by the
17 attorney general or his staff does not waive the sovereign
18 immunity of the state.

19

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

1 state in that capacity, except by the written appointment
2 of the attorney general.

3

4 **9-1-611. Division of criminal investigation; created;**
5 **definitions; director; appointment; qualifications.**

6

7 (c) ~~With the approval of the governor,~~ The attorney
8 general shall appoint a director who is the chief
9 administrative officer and chief agent of the division.

10

11 **9-1-633. Wyoming law enforcement academy; director;**
12 **appointment; term; qualifications; employees; salaries;**
13 **curriculum and training programs; fees; disposition.**

14

15 (a) A director of the Wyoming law enforcement academy
16 shall be appointed by the attorney general. ~~with the~~
17 ~~consent of the governor.~~ The director shall serve at the
18 pleasure of the attorney general. He shall have
19 administrative and operational experience in criminal
20 justice and such other qualifications as are satisfactory
21 to the attorney general.

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,~~ The attorney
6 general shall appoint a director who is the chief
7 administrative officer of the division. The director is
8 responsible to the attorney general for the operation of
9 the division and shall serve at the pleasure of the
10 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 **9-13-102. Definitions.**

17
18 (a) As used in this article:

19
20 (xii) "Public employee" means any of the
21 following state employees:

22
23 (A) The attorney general until the 2006
24 general election and the director of any department of the

1 executive branch appointed by the governor under W.S.
2 9-2-1706, or the director of any legislative agency;

3

4 (xvi) "State office" means the state offices of
5 governor, treasurer, superintendent of public instruction,
6 auditor, secretary of state, attorney general after the
7 2006 general election, and member of the state legislature;

8

9 **9-13-108. Disclosure required.**

10

11 (a) Not later than January 31 annually, each of the
12 state's five (5) elected officials, ~~and~~ each member of the
13 Wyoming legislature and after the 2006 general election the
14 attorney general shall file a financial disclosure form
15 with the secretary of state. The form shall be signed by
16 the elected official or legislator filing it and under a
17 certification that it is accurate. The financial disclosure
18 form shall contain the following information current as of
19 January 15 of that year:

20

21 **22-2-105. Terms of office and offices voted on at**
22 **general elections.**

23

1 (a) The terms of office and offices voted on at
2 general elections are as follows:

3

4 (ii) Four Year Term. - At the general election
5 in 1974 and in every fourth ~~(4th)~~ year thereafter, there
6 shall be elected the following officers: one (1) governor,
7 one (1) secretary of state, one (1) state treasurer, one
8 (1) state auditor, one (1) superintendent of public
9 instruction, county clerks, county treasurers, county
10 assessors, county coroners, county and prosecuting
11 attorneys, district attorneys, sheriffs, clerks of the
12 district court and justices of the peace. At every general
13 election there shall be elected the necessary member or
14 members of the Wyoming senate and county commissioners. At
15 the general election in 2006 and every fourth year
16 thereafter, there shall be elected a state attorney
17 general. In those counties that have established a circuit
18 court, the question of retention of a circuit court judge
19 or a magistrate of the circuit court shall be submitted:

20

21 **22-5-103. Legislative service; limits on ballot**
22 **access; state offices.**

23

1 (a) Notwithstanding any other provision of Wyoming
2 law, the secretary of state or other authorized official
3 shall not certify the name of any person as the nominee or
4 candidate for the office sought, nor shall that person be
5 elected nor serve in that office if the following will
6 occur:

7
8 (i) The person, by the end of the current term
9 of office will have served, or but for resignation, would
10 have served eight (8) or more years in any sixteen (16)
11 year period in the office for which the candidate is
12 seeking nomination or election, except, that any time
13 served in that particular office prior to January 1, 1993,
14 shall not be counted for purposes of this term limit. This
15 provision shall apply to the offices of governor, secretary
16 of state, state auditor, state treasurer, attorney general
17 and state superintendent of public instruction;

18

19 **22-6-117. Order of listing offices in partisan**
20 **elections.**

21

22 (a) The major party primary and general partisan
23 election ballots shall contain the offices to be voted on
24 in the following order:

1

2

(vi) Candidates for state attorney general;

3

4

~~(vi)~~ (vii) Candidates for state senate;

5

6

~~(vii)~~ (viii) Candidates for state house of
representatives;

8

9

~~(viii)~~ (ix) Candidates for district attorney;

10

11

~~(ix)~~ (x) Candidates for county commissioner,
coroner, attorney, sheriff, clerk, treasurer, assessor, and
clerk of the district court;

14

15

~~(x)~~ (xi) Candidates for offices of county
subdivisions;

17

18

~~(xi)~~ (xii) Candidates for precinct offices.

19

20

28-12-103. Expiration date of appointees' terms.

21

22

Notwithstanding any other provision of law, effective July
1, 1979, after the expiration of the current term of office
of each person appointed by the governor and required to be

24

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

11

12 **35-7-1004. Personnel to administer provisions.**

13

14 The attorney general ~~by and with the consent of the~~
15 ~~governor~~ may employ such personnel as necessary to
16 administer this act. Such personnel shall serve at the
17 pleasure of the attorney general at such compensation as
18 may be approved by the Wyoming personnel division. Said
19 personnel shall be assigned such duties as may be necessary
20 to assist the commissioner in the performance of his
21 responsibilities under this act for the efficient operation
22 of the work of the office.

23

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

1

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

6

7

(END)