

## HOUSE BILL NO. HB0169

Attorney general appointment.

Sponsored by: Representative(s) Childers and Hageman 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.

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

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11 **Section 1.** W.S. 8-1-102(a) by creating a new  
12 paragraph (xii), 9-1-601(a), 9-1-602, 9-1-603(b) and (c),  
13 9-1-605(b) through (d), 9-1-608(a) and (b), 9-1-611(c),  
14 9-1-633(a) and (b)(intro), 9-1-636(b) and (c)(intro),  
15 9-4-218(a)(iii), 28-12-103 and 35-7-1004 are amended to  
16 read:

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

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

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

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

(a) The attorney general of the state of Wyoming shall be appointed by the ~~governor~~ five (5) state elected officials with the advice and consent of the senate. ~~in accordance with~~ The attorney general shall be appointed for a term of four (4) years commencing as specified in W.S. 28-12-103 with the appointment made after the election at which the five (5) state officials are elected. The state officials shall submit the appointment as provided in W.S. 28-12-101 through 28-12-103 ~~and~~ for gubernatorial

1 appointments. The attorney general may be removed ~~by the~~  
2 ~~governor as provided in W.S. 9-1-202~~ at the pleasure of a  
3 majority of the five (5) state elected officials.  
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5 **9-1-602. Vacancy in office.**  
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7 In case of a vacancy in the office of attorney general the  
8 ~~governor~~ five (5) state elected officials shall appoint a  
9 qualified person to fill the vacancy in accordance with the  
10 provisions of W.S. 28-12-101(b).  
11

12 **9-1-603. Duties generally; retention of qualified**  
13 **practicing attorneys; matters in which county or state is**  
14 **party or has interest; assistance to county and district**  
15 **attorneys in felony trials.**  
16

17 (b) With the approval of the ~~governor~~ five (5) state  
18 elected officials the attorney general may retain qualified  
19 practicing attorneys to prosecute fee-generating suits for  
20 the state if expertise in a particular field is desirable.  
21

22 (c) Upon the failure or refusal of any district or  
23 county attorney to act in any criminal or civil case or  
24 matter in which the county, state or any agency thereof is

1 a party, or has an interest, the attorney general may, at  
2 the request of the board of county commissioners of the  
3 county involved or of the district judge of the judicial  
4 district involved, act on behalf of the county, state or  
5 any agency thereof, if after a thorough investigation the  
6 action is deemed advisable by the attorney general. The  
7 cost of investigation and the cost of any prosecution  
8 arising therefrom shall be paid out of the general fund of  
9 the county where the investigation and prosecution take  
10 place. The attorney general shall also, upon direction of  
11 the ~~governor~~, five (5) state elected officials investigate  
12 any matter in any county of the state in which the county,  
13 state or any agency thereof may be interested. After  
14 investigation, the attorney general shall submit a report  
15 of the investigation to the ~~governor~~ five (5) state elected  
16 officials and to the district or county attorney of each  
17 county involved and may take such other action as he deems  
18 appropriate.

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20 **9-1-605. Approval of public securities and official**  
21 **bonds; water rights proceedings; investigation of**  
22 **misconduct of county official; commencement of action.**

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1           (b) Under the direction of the ~~governor~~five (5)  
2 state elected officials the attorney general shall  
3 institute and pursue proceedings to maintain the state's  
4 and its citizens' rights in the waters of interstate  
5 streams.

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

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16           (d) Upon completion of the investigation, the  
17 attorney general shall report the results of the  
18 investigation and his recommendations to the ~~governor~~five  
19 (5) state elected officials. If the ~~governor~~five (5) state  
20 elected officials and the attorney general determine that  
21 the attorney general should institute a criminal or civil  
22 action, the attorney general shall commence the action. The  
23 attorney general shall have the authority and duty vested  
24 in district attorneys in this state.

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

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(a) With the approval of the ~~governor~~ five (5) state  
5 elected officials the attorney general may appoint  
6 assistant attorneys general necessary for the efficient  
7 operation of his office. Each assistant attorney general  
8 shall be a member in good standing of the Wyoming bar and  
9 shall serve at the pleasure of the attorney general. The  
10 assistants shall act under the direction of the attorney  
11 general and his deputies. The attorney general, his  
12 deputies or his assistants may appear in any courts of the  
13 state or the United States and prosecute or defend on  
14 behalf of the state. An appearance by the attorney general  
15 or his staff does not waive the sovereign immunity of the  
16 state.

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(b) With the approval of the ~~governor~~ five (5) state  
19 elected officials the attorney general may appoint special  
20 assistant attorneys general for any purposes. A person  
21 shall not be employed as an attorney or legal counsel by  
22 any department, board, agency, commission or institution of  
23 the state, or represent the state in that capacity, except  
24 by the written appointment of the attorney general.

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2           **9-1-611. Division of criminal investigation; created;**  
3 **definitions; director; appointment; qualifications.**

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5           (c) With the approval of the ~~governor~~ five (5) state  
6 elected officials the attorney general shall appoint a  
7 director who is the chief administrative officer and chief  
8 agent of the division.

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10           **9-1-633. Wyoming law enforcement academy; director;**  
11 **appointment; term; qualifications; employees; salaries;**  
12 **curriculum and training programs; fees; disposition.**

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14           (a) A director of the Wyoming law enforcement academy  
15 shall be appointed by the attorney general with the consent  
16 of the ~~governor~~ five (5) state elected officials. The  
17 director shall serve at the pleasure of the attorney  
18 general. He shall have administrative and operational  
19 experience in criminal justice and such other  
20 qualifications as are satisfactory to the attorney general.

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22           (b) The director may employ assistants, instructors  
23 and other personnel as approved by the attorney general.  
24 ~~with the consent of the governor.~~ The attorney general may

1 appoint the director as a peace officer, if qualified  
2 pursuant to W.S. 9-1-701 through 9-1-707. The director may  
3 appoint full-time staff instructors who qualify pursuant to  
4 W.S. 9-1-701 through 9-1-707 to perform as peace officers.  
5 Persons appointed as peace officers pursuant to this  
6 subsection shall be considered peace officers only:

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8 **9-1-636. Division of victim services; created;**  
9 **appointment of director and deputy director; administrative**  
10 **and clerical employees; definitions.**

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12 (b) With the approval of the ~~governor~~ five (5) state  
13 elected officials, the attorney general shall appoint a  
14 director who is the chief administrative officer of the  
15 division. The director is responsible to the attorney  
16 general for the operation of the division and shall serve  
17 at the pleasure of the attorney general.

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19 (c) With the consent of the attorney general, ~~and the~~  
20 ~~governor,~~ and subject to legislative appropriation, the  
21 director may:

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23 **9-4-218. Federal natural resource policy account**  
24 **created; purposes.**



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2 (a) There is created within the special revenue fund  
3 an account known as the "federal natural resource policy  
4 account." Funds within the account may be expended by the  
5 governor on behalf of the state of Wyoming and its local  
6 governments, to take any of the actions specified in this  
7 subsection in response to federal land, water, air, mineral  
8 and other natural resource policies which may affect the  
9 tax base of the state, wildlife management, state species,  
10 recreation, private property rights, water rights or  
11 leasehold rights. Funds also may be expended for preparing  
12 and participating in environmental impact statements and  
13 environmental assessments, including analysis of economic  
14 or social and natural or physical environmental effects on  
15 the human environment. The governor may expend funds from  
16 the federal natural resource policy account for:

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18 (iii) Investigating, initiating, intervening or  
19 otherwise participating in litigation, or taking any other  
20 legal action, that furthers the purposes of this  
21 subsection. In carrying out this subsection, the attorney  
22 general, with approval of the ~~governor~~ five (5) elected  
23 state officers, may retain qualified practicing attorneys  
24 to act for the state, including providing representation in

1 other forums with the federal government or other state  
2 governments that may preclude or resolve any outstanding  
3 issues or attempting to influence pertinent federal  
4 legislation;

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6 **28-12-103. Expiration date of appointees' terms.**

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8 Notwithstanding any other provision of law, effective July  
9 1, 1979, after the expiration of the current term of office  
10 of each person appointed by the governor and required to be  
11 confirmed by the senate, the next term of that office  
12 expires on March 1 during the year of regular expiration.  
13 Thereafter, each term, as specified in this section, and  
14 each term of office on any board, commission or committee  
15 created by the laws of this state after July 1, 1979, and  
16 for which senate confirmation is required, expires on March  
17 1 during the year of regular expiration. ~~Notwithstanding~~  
18 ~~the provisions of this section, the term of an attorney~~  
19 ~~general serving pursuant to W.S. 9-1-601(b) shall terminate~~  
20 ~~as provided by that subsection.~~

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22 **35-7-1004. Personnel to administer provisions.**

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1 The attorney general by and with the consent of the  
2 ~~governor~~ five (5) state elected officials may employ such  
3 personnel as necessary to administer this act. Such  
4 personnel shall serve at the pleasure of the attorney  
5 general at such compensation as may be approved by the  
6 Wyoming personnel division. Said personnel shall be  
7 assigned such duties as may be necessary to assist the  
8 commissioner in the performance of his responsibilities  
9 under this act for the efficient operation of the work of  
10 the office.

11

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

13

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

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(END)