
APPENDIX A

Selected statutes

TITLE 9 - ADMINISTRATION OF THE GOVERNMENT
CHAPTER 2 - AGENCIES, BOARDS, COMMISSIONS AND DEPARTMENTS GENERALLY
ARTICLE 10 - DEPARTMENT OF ADMINISTRATION AND INFORMATION

9-2-1001. Creation.

The department of administration and information is created.

9-2-1002. Definitions; powers generally; duties of governor; provisions construed; cooperation with legislature and judiciary; divisions enumerated.

(a) As used in this act:

- (i) "Agency" means an office, department, board, commission or operating unit of the executive branch of state government;
- (ii) "Department" means the department of administration and information;
- (iii) "Entity" means any governmental unit, special district, corporation, partnership or person which will receive a legislative appropriation, directly or indirectly, excluding the legislature, the judiciary and the Wyoming department of transportation, game and fish department, counties, municipalities and school districts;
- (iv) "Exception budget" means a budget prepared by an entity containing requests for appropriations which vary from the standard budget as prepared by the budget division or otherwise represents additional or increased services. The agency shall justify the new or increased services and describe all new staff, support services and additional equipment which will be required. The exception budget shall also be used to describe any decreases in nongeneral fund revenues formally supporting an entity's services and for which a general fund appropriation is being requested;
- (v) "Executive branch" means the executive department of state government established by article 2, section 1 of the Wyoming constitution;
- (vi) Repealed By Laws 1997, ch. 178, § 2.
- (vii) "Legislature" means the legislative department of state government established by article 2, section 1 of the Wyoming constitution;
- (viii) "Judiciary" means the judicial department of state government established by article 2, section 1 of the Wyoming constitution;
- (ix) "Standard budget" means a budget enabling an entity to continue to furnish the same level of services during the ensuing biennium and shall reflect the revenue or appropriation necessary to provide the services. The budget shall include all personnel approved in the preceding biennial budget, a supportive service category and the amount of revenue generated by the entity during the preceding biennium and estimated revenue for the ensuing biennium regardless of the fund to which the monies were deposited. The standard budget shall not include any personnel other than those specifically authorized in the preceding biennial budget. The standard budget shall not include requests for any

equipment, any special projects and services nor any requests for special or nonrecurring funding. The limitations regarding authorized personnel and equipment requests in this paragraph shall not apply to the University of Wyoming;

(x) "This act" means W.S. 9-2-1001 through 9-2-1026.13;

(xi) "Contract employee" means an employee who is hired by any agency for a limited period of time, pursuant to rules promulgated by the human resources division in W.S. 9-2-1022(a)(xi)(E);

(xii) "Base budget" means a budget containing all legislative appropriations as defined by W.S. 9-2-1013(d)(iv), which shall be prepared by the division for each entity containing all programs for the biennium preceding the biennium for which a standard budget is being prepared pursuant to this act. The base budget and all information accompanying the base budget as required by this act shall be of sufficient detail to parallel components of the standard budget prepared for each entity under this act.

(b) The department may assist the governor in discharging his duties as chief executive and administrative officer of the executive branch of government of the state of Wyoming. The governor through the department shall:

(i) Improve techniques used for management of state government;

(ii) Coordinate, consolidate and provide services which are used by more than one (1) agency;

(iii) Review agency programs, expenditures and management to identify problems and suggest improvements;

(iv) Promote economy and efficiency in government; and

(v) Establish uniform standards of administration.

(c) This act shall be construed to provide the governor, through the department, with a more coordinated and responsive system of management of the executive branch of state government, and to preserve and protect the separation of powers mandated by article 2, section 1 of the Wyoming constitution. The legislature and the judiciary shall cooperate with the department and may utilize the services and assistance of the department to achieve economy in government, but procedures affecting the administration of the legislature shall be determined by the legislature and the management council, and procedures affecting the administration of the judiciary shall be determined by the judges for their respective courts, and they shall not be bound by rules and regulations promulgated by the department.

(d) The department shall consist of the following divisions in addition to the office of the director of the department:

(i) Budget division;

(ii) General services division;

(iii) Human resources division;

(iv) Information technology division;

(v) Repealed By Laws 1997, ch. 178, § 2.

(vi) Economic analysis division;

(vii) Repealed by Laws 1989, ch. 178, § 3.

(viii) Repealed by Laws 1989, ch. 178, § 3.

(ix) Repealed By Laws 1997, ch. 178, § 2.

(x) State library division.

9-2-1003. Director and division administrators; appointment; removal; powers of director.

- (a) The governor shall appoint a director of the department with the advice and consent of the senate who shall be the department's executive and administrative head, and who shall hold an ex officio seat on all boards and councils which advise or are within the department.
- (b) With the approval of the governor, the director may appoint administrators for each of the divisions. The governor may remove the director and division administrators as provided in W.S. 9-1-202.
- (c) The director may:
- (i) Employ professional, technical and other assistants to work in the director's office or in any of the divisions, along with other employees necessary to carry out the purpose of this act [§§ 9-2-1001 through 9-2-1026.13];
 - (ii) Repealed by Laws 1991, ch. 29, § 6.
 - (iii) Adopt reasonable rules and regulations to administer this act pursuant to the Wyoming Administrative Procedure Act [§§ 16-3-101 through 16-3-115];
 - (iv) Formulate through his office or the information technology division the policies and programs to be carried out by the department through its respective divisions.
- (d) The director shall administer through his office all accounting, billing and collection functions required by the department.
- (e) The director shall administer through his office or through a division of the department, the duties of the department under the State Employees' and Officials' Group Insurance Act.

Statutes related to the Human Resources Division**9-2-1022.** Duties of department performed through human resources division.

- (a) Subject to subsection (b) of this section, the department through the human resources division shall:
- (i) Establish and administer a personnel classification schedule covering all agency employees, classifying positions into categories determined by similarity of duties, authority, responsibilities and other relevant factors of employment;
 - (ii) Establish and administer a uniform and equitable compensation plan covering all agency employees specifying the minimum, intermediate and maximum levels of pay for positions within each classification;
 - (iii) Supervise employer-employee benefit plans not otherwise provided for by law;
 - (iv) Maintain an information roster on each employee of the state specifying employee name, employing agency, position classification, rate of compensation, job title, position description and service tenure. The information shall be available for inspection only as provided by the Public Records Act [§§ 16-4-201 through 16-4-205];
 - (v) Maintain a register of applications made by all persons seeking employment with an agency. Each application shall be rated on the basis of suitability and qualifications without regard to political affiliation, race, color, sex, creed or age;
 - (vi) Initiate and administer recruitment programs designed to attract suitable and qualified employees to the service of the state;
 - (vii) Approve all in-service or staff development programs available through agencies or sponsored by the department;

- (viii) Approve all agencies' changes related to personnel with respect to compensation, position classification, transfers, job titles, position specifications and leave time;
- (ix) Subject to subsection (g) of this section, establish personnel standards governing employee leave time, hours of work, attendance, grievances and terminations;
- (x) With the cooperation and assistance of the division of economic analysis, collect and maintain statistical information related to personnel administration from agencies;
- (xi) Promulgate reasonable rules:
- (A) Which are necessary to administer the classification plan, the compensation plan and the system of service ratings;
 - (B) Governing minimum hours of work, attendance regulations, leaves of absence for employees, vacations and the order and manner in which layoffs shall be made;
 - (C) Concerning recruiting, transfers, discipline, grievances and appeals; and
 - (D) Necessary to administer a program whereby two (2) employees may share one (1) position or three (3) employees may share two (2) positions as set forth in subsection (f) of this section;
 - (E) Necessary to administer a program whereby contract employees may be utilized by agencies to meet programmatic needs until July 1, 1996;
 - (F) Necessary to administer a program whereby at-will contract employees may be utilized by agencies to meet programmatic needs. These rules shall be structured so that:
 - (I) At-will contract employees receive benefits limited to coverage and employer contributions as required by law for social security, worker's compensation, unemployment compensation and group insurance benefits as provided in subdivision (III) of this subparagraph and except as otherwise provided in subdivision (IV) of this subparagraph;
 - (II) The minimum benefits or rights specifically required under any federal law are provided. In determining the minimum benefits or rights provided under federal law, the rules shall require employment contracts under this subparagraph to be structured so as to exempt at-will contract employees from coverage to the greatest extent possible;
 - (III) Except as provided in this subdivision and in subdivision (IV) of this subparagraph, no at-will contract employees shall be eligible for or accrue any type of leave or be eligible to participate in or otherwise be covered by state employees' and officials' group insurance, the state retirement system or the deferred compensation program. If the employment contract so provides, an at-will contract employee may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, or in the case of the Wyoming retirement system an at-will contract employee of a member employer may be enrolled in the system if that employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement, provided the employee pays the total premium or contribution required;
 - (IV) Notwithstanding subdivision (III) of this subparagraph, if the employment contract so provides, an at-will, year-round, full-time brand inspection contract employee authorized to carry out the duties specified by W.S. 11-20-201 may be eligible for membership in the state employees' and officials' group insurance plan in accordance with W.S. 9-3-207, and the state retirement system under W.S. 9-3-412, provided the employee pays the total premium or contribution required, or the portion of the

premium or contribution the employment contract directs the employee to pay and the employee's wages under the contract are reported on an Internal Revenue Service Form W-2 Wage and Tax Statement. The Wyoming livestock board shall have sole discretion to determine the amount of the total premium or contribution to be paid by the employee and the amount to be paid by the board, if any. The time limitations provided in subparagraph (F) of this paragraph shall not apply to any employee under this subdivision;

(V) An at-will contract shall be for a term not exceeding twenty-four (24) months subject to renewal of the contract at the end of the contract period.

(xii) Establish a program whereby two (2) employees may voluntarily share one (1) classified position or three (3) employees may voluntarily share two (2) positions subject to the provisions of subsection (f) of this section;

(xiii) Administer all statewide training functions provided by the department;

(xiv) Repealed By Laws 2001, Ch. 55, § 3.

(b) The current state compensation plan shall apply to all state executive branch employees except those employees of the University of Wyoming and community colleges. It shall consist of:

(i) Current job descriptions. These shall describe the nature and level of work performed and assist in job evaluation and classification, pay comparisons with other entities, recruitment, selection and performance appraisal;

(ii) Job evaluation and classification. This process shall formally assign positions to classifications and determine pay grades in one (1) or more pay systems based on an evaluation of the content of jobs using quantitative point factors. At a minimum, these factors shall include skill, effort, responsibility and working conditions. These factors and their weights shall be established by the human resources division and reflect the relative importance of job content to the state. The human resources division shall periodically audit the system through assessing employee complaints and analyzing hiring difficulties and turnover statistics;

(iii) Pay data collection and analysis. Data collection shall be based on a defined and relevant labor market that is representative of public and private sector employers. Data analysis shall identify salary ranges for each pay grade with minimum, midpoint and maximum dollar limits;

(iv) Procedures to set and change individual pay rates consistent with subsection (c) of this section;

(v) A performance appraisal system. This system shall measure performance in writing as objectively as possible. The system shall relate differences in performance levels and provide a means of employee advancement within classification pay grades. Evaluators shall be trained in performance appraisal prior to assessing the performance of any employee. Evaluators shall be required to attend continuing personnel evaluation education programs as deemed necessary by the human resources division. All employees subject to appraisal may respond to the appraisal of their performance in writing;

(vi) Data collected under this subsection shall be available to the legislature as needed.

(c) Beginning July 1, 1989, the state compensation plan shall provide for the following procedures to establish and change individual pay rates:

(i) Except as otherwise provided by law for the period commencing July 1, 1994 and ending June 30, 1998, starting rates of pay shall reflect the experience of new hires, labor market conditions and established rates of pay for current, experienced employees;

- (ii) Except as otherwise provided by law for the period commencing July 1, 1994 and ending June 30, 1998, general pay increases shall be only those approved by the legislature;
- (iii) Pay increases based on performance appraisals shall be approved after July 1, 1990, consistent with the performance appraisal system and appropriations for this purpose;
- (iv) Promotion pay increases may be approved when an employee moves to a higher job grade;
- (v) Longevity pay increases shall be approved at a rate of thirty dollars (\$30.00) per month for each five (5) years of service;
- (vi) Special pay increases may be approved by the governor using available funds appropriated in the personnel services category in the agencies' budgets or using the authority granted in 1988 Wyoming Session Laws, Chapter 89, Section 209.

Note: Sections (d) through (m) not included.

Fair Employment Practice Act of 1965

27-9-101. Short title.

This article may be known and may be cited as the "Wyoming Fair Employment Practices Act of 1965."

27-9-102. Definitions.

- (a) "Court" shall mean the district court in and for the judicial district of the state of Wyoming in which the asserted unfair employment practice occurred, or, if said court be not in session at that time, then any judge of said court.
- (b) "Employer" shall mean the state of Wyoming or any political subdivision or board, commission, department, institution or school district thereof, and every other person employing two (2) or more employees within the state; but it does not mean religious organizations or associations.
- (c) "Unfair employment practice" shall mean those practices specified as discriminatory or unfair in W.S. 27-9-105.
- (d) As used in W.S. 27-9-101 through 27-9-106, "department" means the department of employment and the term "director" means the director of the department or his designee who is authorized to administer W.S. 27-9-101 through 27-9-106.

27-9-103. Repealed by Laws 1990, ch. 63, § 3.

27-9-104. Powers and duties of department of employment.

- (a) The department shall have the following powers and duties:
 - (i) To call upon any state agency, institution, or employee, for advice, counsel, and assistance in the enforcement of this article;
 - (ii) To adopt, publish, amend, and rescind regulations consistent with and for the enforcement of this article;
 - (iii) To receive, investigate, and determine the validity of complaints alleging discrimination in employment or the existence of a discriminatory or unfair employment practice;
 - (iv) Repealed By Laws 2001, Ch. 162, § 2.
 - (v) For the purposes of all investigations the department shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any books, papers, documents or records which the department deems relevant or material to the inquiry;

(vi) In case of disobedience to a subpoena the department may invoke the aid of any district court in the state in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any failure to obey the order of the court may be punished by the court as a contempt of court;

(vii) To enter into agreements, exchange information and otherwise assist the equal employment opportunity commission, and to accept from the equal employment opportunity commission reimbursement for services rendered.

(b) The department shall contract with an independent hearing officer to conduct any hearing under W.S. 27-9-101 through 27-9-106.

27-9-105. Discriminatory and unfair employment practices enumerated; limitations.

(a) It is a discriminatory or unfair employment practice:

(i) For an employer to refuse to hire, to discharge, to promote or demote, or to discriminate in matters of compensation or the terms, conditions or privileges of employment against, a qualified disabled person or any person otherwise qualified, because of age, sex, race, creed, color, national origin or ancestry;

(ii) For a person, an employment agency, a labor organization, or its employees or members, to discriminate in matters of employment or membership against any person, otherwise qualified, because of age, sex, race, creed, color, national origin or ancestry, or a qualified disabled person;

(iii) For an employer to reduce the wage of any employee to comply with this chapter;

(iv) For an employer to require as a condition of employment that any employee or prospective employee use or refrain from using tobacco products outside the course of his employment, or otherwise to discriminate against any person in matters of compensation or the terms, conditions or privileges of employment on the basis of use or nonuse of tobacco products outside the course of his employment unless it is a bona fide occupational qualification that a person not use tobacco products outside the workplace. Nothing within this paragraph shall prohibit an employer from offering, imposing or having in effect a health, disability or life insurance policy distinguishing between employees for type or price of coverage based upon the use or nonuse of tobacco products if:

(A) Differential rates assessed employees reflect an actual differential cost to the employer; and

(B) Employers provide written notice to employees setting forth the differential rates imposed by insurance carriers.

(b) The prohibitions against discrimination based on age in this section apply only to persons at least forty (40) years of age.

(c) It is not a discriminatory practice for an employer, employment agency or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this chapter, except that no employee benefit plan shall excuse the failure to hire any individual, and no seniority system or employee benefit plan shall require or permit involuntary retirement of any individual protected under this chapter because of age. Involuntary retirement is not prohibited if permitted under Title 29, United States Code § 631(c).

(d) As used in this section "qualified disabled person" means a disabled person who is capable of performing a particular job, or who would be capable of performing a particular job with reasonable accommodation to his disability.

27-9-106. Filing of complaint; determination; appeal for hearing.

(a) Any person claiming to be aggrieved by a discriminatory or unfair employment practice may, personally or through his attorney, make, sign and file with the department within six (6) months of the alleged violation a verified, written complaint in duplicate which shall state the name and address of the person, employer, employment agency or labor organization alleged to have committed the discriminatory or unfair employment

practice, and which shall set forth the particulars of the claim and contain other information as shall be required by the department. The department shall investigate to determine the validity of the charges and issue a determination thereupon.

(b) Repealed By Laws 2001, Ch. 162, § 2.

(c) Repealed By Laws 2001, Ch. 162, § 2.

(d) Repealed By Laws 2001, Ch. 162, § 2.

(e) Repealed By Laws 2001, Ch. 162, § 2.

(f) Repealed By Laws 2001, Ch. 162, § 2.

(g) Repealed By Laws 2001, Ch. 162, § 2.

(h) Repealed By Laws 2001, Ch. 162, § 2.

(j) Repealed By Laws 2001, Ch. 162, § 2.

(k) If the employer, employment agency, labor organization or employee is aggrieved by the department's determination, the aggrieved party may request a fair hearing. The fair hearing shall be conducted pursuant to the Wyoming Administrative Procedure Act.

(m) The department shall issue an order within fourteen (14) days of the decision being rendered, requiring the employer, employment agency or labor organization to comply with the hearing officer's decision. If the employer, employment agency or labor organization does not timely appeal or comply with the order within thirty (30) days, the department may petition the appropriate district court for enforcement of the order.

(n) Where the hearing officer determines that the employer, employment agency or labor organization has engaged in any discriminatory or unfair employment practice as defined in this chapter, the hearing officer's decision may:

(i) Require the employer, employment agency or labor organization to cease and desist from the discriminatory or unfair practice;

(ii) Require remedial action which may include hiring, retaining, reinstating or upgrading of employees, referring of applications for employment by a respondent employment agency or the restoration to membership by a respondent labor organization;

(iii) Require the posting of notices, the making of reports as to the manner of compliance and any other relief that the hearing officer deems necessary and appropriate to make the complainant whole; or

(iv) Require the employer, employment agency or labor organization to pay back pay or front pay.