

Chapter 132

ELECTED OFFICIALS-LEGAL REPRESENTATION

Original Senate File No. 51

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

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

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

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

The secretary of state may employ legal counsel to review contracts entered into by the secretary of state in his official capacity and to perform other duties assigned by the secretary of state. Nothing in this section prohibits the secretary of state from using the services of the attorney general's office.

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

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

(a) Any officer, board or commission of the state of Wyoming, or their legal counsel, responsible for the enforcement of any contract between the state of Wyoming and any person, having reason to believe that there has been a violation of the terms of the contract to the damage of the state of Wyoming, shall report the matter to the attorney general of the state of Wyoming. The attorney general shall make such investigation of the matter as is necessary. Upon completion of the investigation and finding of probable damages to the state of Wyoming, the attorney general may bring suit in any court of competent jurisdiction to recover all damages that the state of Wyoming may have incurred by reason of the breach of contract, or for any money or other property that may be due on the contract. Subject to the governor's approval he may employ specially qualified assistants or counsel to aid in any investigation of such action.

8-1-102. Definitions.

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

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

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

(c) The state auditor may:

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

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

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

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

(a) The attorney general shall:

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

9-1-608. Assistant attorneys general.

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

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

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

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

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

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

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

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

Approved March 19, 2004.