

ORIGINAL HOUSE  
BILL NO. 0087

ENROLLED ACT NO. 60, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING  
2011 GENERAL SESSION

AN ACT relating to the general revision of laws; amending archaic and obsolete provisions; correcting and updating references; conforming provisions to previous enactments; repealing provisions held to be unconstitutional; repealing fully executed and otherwise archaic or obsolete provisions; amending the duties of the legislative service office by authorizing deletion of obsolete date references from compiled laws; and providing for an effective date.

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

[SECTION 1. PROVISIONS AFFECTED BY COURT DECISIONS]

[a. PROVISIONS HELD TO BE UNCONSTITUTIONAL]

**Section 101.** W.S. 1-39-117(a), 5-6-202(b), 5-6-301(b), 6-10-105 and 7-11-504 are amended to read:

**1-39-117. Jurisdiction; appeals; venue; trial by jury; liability insurance.**

(a) Original and exclusive jurisdiction for any claim filed in state court under this act shall be in the district courts of Wyoming. Appeals may be taken as provided by law.

**5-6-202. Powers and duties of municipal judge generally; court to open every day except Sunday.**

(b) The municipal judge shall enforce due obedience to all orders, rules and judgments made by him. The judge has the same power as the district court in the issuance of warrant, search warrant, subpoena or other necessary process and may fine or imprison for contempt offered to him or to process issued by him in the same manner and to the same extent as the district court. Before any person

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is imprisoned for the willful refusal to pay a fine, the court shall determine whether the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

**5-6-301. Punishment of persons convicted before judge; maximum penalty permitted; power to punish for contempt.**

(b) The municipal judge shall punish for contempt in the same manner as district court. Before any person is imprisoned for the willful refusal to pay a fine, the court shall determine whether the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay.

**6-10-105. Commitment for refusal to pay fine or costs; rate per day.**

A person committed to jail for willfully refusing to pay a fine or costs may be imprisoned if the court determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay, until the imprisonment, at the rate of fifteen dollars (\$15.00) per day, equals the amount of the fine or costs, or the amount shall be paid or secured to be paid when he is discharged.

**7-11-504. Commitment until fine and costs paid.**

If a defendant sentenced to pay a fine or costs defaults in payment, the court may order the defendant to show cause why he should not be committed to jail. If the court finds that the defendant's default is willful or is due to a failure on defendant's part to make a good faith effort to obtain the funds required for the payment and the court

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determines that the defendant has an ability to pay or that a reasonable probability exists that the defendant will have an ability to pay, the court may order him committed until the fine or costs, or a specified part thereof, is paid. The defendant shall be given a credit for each day of imprisonment at the rate provided by W.S. 6-10-105, and may earn additional credits against his fine or costs for work performed as provided by W.S. 7-16-101 through 7-16-104.

[SECTION 1. PROVISIONS AFFECTED BY COURT DECISIONS]  
[b. OTHER CONSTITUTIONAL QUESTIONS]

**Section 102.** W.S. 28-1-111 and 28-1-112 are amended to read:

**28-1-111. Certification of violations for prosecution.**

Whenever any witness subpoenaed to appear or produce documents before the legislature, council, or any committee, fails to appear to testify, refuses to be sworn, fails to answer any question relevant to matter under inquiry, fails to produce any book, paper or other document relevant to the matter under inquiry, or whenever any person is alleged to have violated W.S. 28-1-110(b), the presiding officer of the body shall certify that failure or violation to the appropriate district attorney ~~who shall prosecute~~ for prosecution of the matter in the appropriate court.

**28-1-112. Court order to appear to testify or produce documents.**

In case of refusal to obey a subpoena issued by the legislature, council, or any committee, the presiding

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~~officer of the body shall apply to~~ the district court for the district in which the proceedings are being held, ~~shall, upon application of the presiding officer of the body, immediately issue~~ for an order requiring the person to appear before the legislature, the council, the committee or other person designated by the presiding officer at the time and place requested by the application, there to produce the documentary evidence or give testimony on the matter under inquiry. Failure to obey the court order may be punished by the court as a contempt of court.

[SECTION 2. PROVISIONS WHICH ARE OBSOLETE]

[a. FULLY EXECUTED]

**Section 201.** W.S. 28-5-101(b) and (d)(intro), 28-9-108, 33-29-114(a)(iv), 33-29-125(a)(i) and (ii) and 36-8-305 are amended to read:

**28-5-101. Schedule of compensation, per diem and travel expenses.**

(b) The amount to be received by each member of the legislature for expenses ~~is increased to forty four dollars (\$44.00) per day effective January 1, 1980, to sixty dollars (\$60.00) per day effective January 1, 1983, to eighty dollars (\$80.00) per day effective January 9, 1995, to eighty five dollars (\$85.00) per day effective January 3, 2005 and to shall be~~ one hundred nine dollars (\$109.00) per day ~~effective April 1, 2008.~~

(d) ~~From and after January 1, 1985, each member of the legislature shall receive seventy five dollars (\$75.00) per day as salary and thirty five cents (\$.35) per mile for necessary travel to attend and return from the legislature. From and after January 9, 1995, each member of the legislature shall receive one hundred twenty five dollars~~

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~~(\$125.00) per day as salary in addition to the mileage rate provided for in this subsection. From and after January 3, 2005,~~ Each member of the legislature shall receive one hundred fifty dollars (\$150.00) per day as salary in addition to the mileage rate provided for in this subsection. ~~From and after January 5, 2009,~~ Each member of the legislature may receive the mileage rate provided for in this subsection for the total round trip mileage from Cheyenne to the legislator's home for not more than one (1) trip each week during the period the legislature is in session, provided the legislature is in session for a period of not less than two (2) weeks and the legislator claiming the mileage reimbursement shall submit a verified claim for mileage to the legislative service office. ~~From and after the first Monday in January, 2009,~~ Each member of the legislature shall receive a mileage rate as established by the state auditor to be reflective of the average of all direct and indirect costs of driving a motor vehicle. In establishing the mileage rate the state auditor:

**28-9-108. Submitting rules to legislative service office required.**

No rule shall be filed with the secretary of state pursuant to the Wyoming Administrative Procedure Act, ~~after the effective date of this act,~~ except an emergency regulation adopted as provided by W.S. 16-3-103(b), unless the rule has been submitted to the legislative service office for review as provided by this act.

**33-29-114. Definitions.**

(a) As used in this act:

(iv) "Engineer-in-training" means a candidate for registration as a professional engineer who is a

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graduate in an approved engineering curriculum of four (4) or more years at a school approved by the board. ~~or, until June 30, 1991, who has eight (8) years or more of education or experience in engineering work which meets the standards specified by the board.~~ In addition the candidate shall have passed the engineer-in-training examination;

**33-29-125. Qualifications for in-training registration.**

(a) An applicant for in-training registration as an engineer shall:

(i) Be of good moral character and repute; ~~and~~

(ii) Have a bachelor degree in an engineering curriculum approved by the board; ~~or~~ and

**36-8-305. Adjudication of water right for flow of Big Horn Hot Springs.**

The legislature of Wyoming, by enacting W.S. 36-8-304, appropriated and set aside for the state of Wyoming, board of charities and reform, the total flow of the Big Horn Hot Springs at Thermopolis, Wyoming, which was estimated to have been thirteen and one-tenth (13.1) cubic feet per second in 1896. That legislation was intended to be and is hereby declared to have been an application for a permit to appropriate in behalf of the board of charities and reform the total flow of Big Horn Hot Springs at Thermopolis, Wyoming, in compliance with W.S. 41-4-501 through 41-4-506 and 41-4-517. The bathing, medicinal, irrigation uses, and the maintenance of flow of water over the terrace between the springs and the Big Horn River are all beneficial uses and are hereby declared to be beneficial uses. The state board of control is directed to adjudicate a water right in

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favor of the board of charities and reform, its successors and assignees, for the flow of the Big Horn Hot Springs at Thermopolis, Wyoming, with a priority date of February 17, 1899. The actual flow for adjudicated purposes shall be determined by the state board of control by established procedure. ~~Effective April 1, 1990, the department of commerce is designated as successor to the state board of charities and reform and the recreation commission under this section. Effective July 1, 1999,~~ The department of state parks and cultural resources is designated as successor to the state board of charities and reform, and the recreation commission ~~and the department of commerce~~ under this section.

**Section 202.** W.S. 24-8-106, 28-5-101(a), 33-4-105(c), 33-19-104(a)(i), 33-29-125(a)(iii), 33-40-106(b)(iv), 33-41-111(b) and 33-41-112(b) are repealed.

[SECTION 2. PROVISIONS WHICH ARE OBSOLETE]  
[b. LEGISLATIVE PROCESS]

**Section 203.** W.S. 28-1-102(b), 28-1-104, 28-1-113(a) and (c), 28-8-102(d) and 28-11-101(b)(i) are amended to read:

**28-1-102. Length of legislative sessions.**

(b) There shall be a legislative budget session each even-numbered year to consider the state budget and any other business the legislature deems desirable. The budget session of the Wyoming legislature shall commence on the second Monday of February of even-numbered years and shall continue for an additional number of legislative working days as agreed by both houses of the legislature or as limited by the Wyoming constitution. ~~The joint appropriations committee shall meet for such time as is~~

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~~necessary to review current budgets and shall prepare and distribute its report to the legislature not less than five (5) days prior to the convening of the budget session.~~

**28-1-104. Copies of printed bills to be mailed to county clerks; filing; inspection.**

Whenever the legislature of this state is in session, it shall be the duty of the ~~chief clerk of the house in which any bill is introduced~~ legislative service office, to mail a printed copy of ~~such any bill, resolution or memorial prefiled or introduced in either house~~ to the county clerk of each county in the state, immediately after the same is printed, and the county clerk receiving such printed copy is hereby required to keep the same on file in his office for the inspection of the public until after the laws for that session are printed and distributed as by law required.

**28-1-113. Joint meetings of legislative standing committees; introduction and passage of budget bill.**

(a) The ~~standing committees of the house of representatives and of the senate being in charge of the appropriation measures~~ joint appropriations committee shall sit ~~jointly~~ in open sessions while considering the budget and shall begin ~~joint~~ meetings not less than twenty (20) days prior to the convening of the budget session. The joint committee may cause the attendance of the heads or responsible representatives of the departments, institutions and all other agencies of the state to furnish information and answer questions as the joint committee requires. ~~Pertinent results of management audit committee audits shall be orally presented to the joint committee at the time of hearing for the agencies to which the audits relate.~~



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(c) The joint committee shall cause the general appropriation bill or bills known as budget bills, to be introduced in whole or in part in the house of representatives or the senate, or both, ~~within five (5) days after the budget session convenes.~~ When a budget bill has passed the house of origin, the bill shall be referred to the standing appropriations committee of the opposite house which shall meet, and consider ~~and recommend adoption or modification of only~~ those amendments to the budget bill which were adopted by the house of origin and shall not propose other amendments to any original joint appropriations committee budget bill.

**28-8-102. Management council; membership; vacancies; meetings; rules and regulations; quorum; officers.**

(d) The management council shall meet promptly following its creation. A majority of the management council shall constitute a quorum for transaction of business. It shall elect a chairman, and vice-chairman ~~and secretary~~ from among its membership. The chairman and vice-chairman shall not be members of the same body.

**28-11-101. Appointment of members; powers and duties; related duties of water development commission.**

(b) The select committee shall:

(i) Select from among its members a chairman, and vice-chairman; ~~and secretary,~~

**Section 204.** W.S. 28-1-114 is repealed.

[SECTION 2. PROVISIONS WHICH ARE OBSOLETE]

[c. ORGANIZATION OF LSO AND LSO DUTIES]

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**Section 205.** W.S. 28-1-115(d), 28-8-101, 28-8-103, 28-8-105(a) (intro), (b) (intro) and (iii), 28-8-113(a), 31-7-103(a) and 35-1-627 are amended to read:

**28-1-115. Submission of state agency plans to legislature; contents; purposes.**

(d) The management audit committee of the legislature, with the assistance of ~~the audit division of~~ the legislative service office and the department of audit, may use the agency plans and annual statement of attainment as the basis for program evaluation and performance audits as authorized by law.

**28-8-101. Creation; composition.**

There is created the legislative service office within the legislative branch of government hereinafter referred to as the "office". ~~The office shall be composed of the services division and the audit division.~~ The organizational structure of the office shall be determined by the management council, subject to the ultimate control of the entire membership of the legislature.

**28-8-103. Director and staff.**

The management council shall appoint by majority vote a director of the office. The director, subject to the prior approval of the management council, ~~shall~~ may appoint ~~an assistant director of legislative services and an assistant director of audit services~~ directors. The director shall appoint such ~~additional~~ professional, technical and clerical staff as necessary to perform the functions assigned to the office. The director and staff shall be selected without reference to political affiliation and

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shall serve at the pleasure of the appointing authority. They shall be paid salaries and receive necessary expenses as determined by the management council.

**28-8-105. Duties of director and staff; prefiling bills; fiscal notes.**

(a) It shall be the duty of the director, ~~through the services division of the office,~~ and staff to perform the following specific functions, together with such other functions as the council may prescribe:

(b) Bills or files, resolutions or memorials may be prefiled by any person who will be a member of the next session of the legislature after the general election and ~~on or before December 15~~ prior to the convening of a regular session of the legislature. They shall be submitted to the director in such form as is in accordance with the most recent rules and practices. Each submittal shall bear the signature of the authorized person submitting it and shall be approved as to form by the director. A bill, file, resolution, or memorial is prefiled when written approval by the sponsor is received by the legislative service office. Promptly upon receipt of the draft of the bill or file, resolution or memorial to be prefiled, the ~~services division~~ office shall:

(iii) Forward ~~forthwith~~ to each requesting legislator and legislator-elect of the pending legislative session and to each county clerk printed copies of each item of prefiled legislation, resolution and memorial so prefiled.

**28-8-113. Duty of agency officers and employees; legislative service office access to records; failure to provide access; penalty.**

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(a) Any officer or employee of a state agency subject to audit or ~~sunset~~other review by the legislature shall fully assist the legislative service office during the course of the audit or review. The legislative service office shall have access to and authority to examine all books, records, accounts, files, correspondence and all other documents, confidential or otherwise, maintained by the agency or its employees during the course of agency business. The provisions of W.S. 16-4-201 through 16-4-205 do not apply to audits or investigations of state agencies performed by or on behalf of the legislature or legislative committees. Any member of the legislative service office who discloses confidential information obtained while conducting an audit, to any person or in any manner not authorized by law, is subject to disciplinary action as provided by W.S. 28-8-108(b).

**31-7-103. Administration and enforcement.**

(a) The administration of this act shall be exercised by the department which may prescribe forms and reasonable rules and regulations in conformity with this act. The department shall keep records of all monies received and disbursed. The records shall be open to examination by the director of the state department of audit or his designee and the ~~audit division of the~~ legislative service office. The highway patrol and all peace officers of any county or municipality shall aid in the enforcement of this act.

**35-1-627. Examination of accounts.**

The governing body of any entity receiving state funds under this act shall not less than every two (2) years cause to be made an audit or other oversight of the financial affairs and transactions of all funds and

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activities of the entity in accordance with W.S. 16-4-121(b) and (c) and 16-4-122. Costs of the audit or other oversight shall be borne by the entity. Copies of audit reports or other reports shall be submitted to the division and the director of the state department of audit upon completion. The director of the state department of audit shall adopt rules for audits and may examine the accounts of any entity receiving state funds under this act. The legislative ~~auditor~~service office may audit the accounts of any entity. These accounts shall be maintained in a manner to guarantee confidentiality of the patient's identity. The state auditor and treasurer shall not disburse any state money to any entity refusing access to its accounts and records for the purposes of this section.

[SECTION 2. PROVISIONS WHICH ARE OBSOLETE]  
[d. OTHER ARCHAIC REFERENCES]

**Section 206.** W.S. 12-3-101(a), 21-2-103, 26-11-107(b)(ii)(B), 28-5-102 and 30-1-132 are amended to read:

**12-3-101. Excise tax to be paid; limitation on liquor or malt beverage importation; penalties.**

(a) An excise tax is assessed and shall be collected by the commission equal to three-fourths of one cent (\$.0075) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on ~~fermented liquors~~wine, two and one-half cents (\$.025) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on spirituous liquors and one-half cent (\$.005) per liter (33.8 ounces) or fraction thereof on malt beverages. The appropriate excise tax shall be collected on all alcoholic or malt beverages sold, offered for sale or use in this state.

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**21-2-103. Effect on functions and powers of community college commission.**

~~Except as provided in W.S. 21-4-304,~~ Nothing in this code shall be construed to limit or contravene the functions and powers of the community college commission of Wyoming as established by law.

**26-11-107. Requirements for eligible surplus line insurers; publication of eligible insurers.**

(b) The broker shall insure only in an insurer which meets the following requirements:

(ii) If an alien insurer not authorized to transact insurance in at least one (1) state of the United States either:

(B) Is listed by the ~~nonadmitted insurers information office~~ international insurers department of the national association of insurance commissioners; or

**28-5-102. Computation of mileage.**

~~In determining the mileage it shall be computed by the nearest practical route, and for the purposes of this section the "nearest practical route" shall be construed to mean where the route is by railroad, it shall be by the most direct railroad route; where the route is by highway, it shall be by the most direct highway; where the route shall be partly by rail and partly by highway, then the route shall be by the most direct highway to the nearest railroad station and then by rail as above provided.~~

**30-1-132. Provisions for indemnity in certain contracts; definition.**

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The term "agreement pertaining to any well for oil, gas, or water, or mine for any mineral" as used in ~~section 1 hereof~~ W.S. 30-1-131, means any agreement or understanding, written or oral, concerning any operations related to drilling, deepening, reworking, repairing, improving, testing, treating, perforating, acidizing, logging, conditioning, altering, plugging, or otherwise rendering services in or in connection with any well drilled for the purpose of producing or disposing of oil, gas or other minerals, or water, and designing, excavating, constructing, improving, or otherwise rendering services in or in connection with any mine shaft, drift, or other structure intended for use in the exploration for or production of any mineral, or an agreement to perform any portion of any such work or services or any act collateral thereto, including the furnishing or rental of equipment, incidental transportation, and other goods and services furnished in connection with any such service or operation.

**Section 207.** W.S. 9-4-715(f), 18-3-512 and 26-11-117(b)(i) are repealed.

[SECTION 3. INCORRECT CITATIONS OR FAILURE TO UPDATE CROSS REFERENCED PROVISIONS]

[a. WYOMING OR INTERNAL CITATIONS]

**Section 301.** W.S. 15-1-101(a)(intro) and (xv), 24-5-101, 24-14-101, 28-7-102(b), 28-7-103, 28-7-104 and 33-38-102(a)(xiv) are amended to read:

**15-1-101. Definitions.**

(a) As used in W.S. 15-1-101 through ~~15-10-117~~ 15-11-302:

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(xv) "This act", unless otherwise specified, means W.S. 15-1-101 through ~~15-10-117~~ 15-11-302.

**24-5-101. Program in addition to any existing road program.**

The road construction program contemplated by this act shall be known as "The Industrial Road Program", which shall be in addition to and not as a substitute for any federal aid, primary, secondary ~~and farm-to-market road program~~ or state-county road construction program or any other road program now in existence.

**24-14-101. Program in addition to any existing road program.**

The road maintenance program contemplated by this chapter shall be known as the "state park road program", which shall be in addition to and not as a substitute for any federal aid, primary, secondary ~~and farm-to-market road program~~ or state-county road construction program or any other road program now in existence.

**28-7-102. Penalties.**

(b) Any person or organization failing to file a lobbyist activity report required under ~~this section~~ W.S. 28-7-201 or who files a lobbyist activity report containing information which the lobbyist knows to be false is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00). Upon a second or subsequent conviction under this section, any person or organization shall have his right to be a registered lobbyist revoked by the secretary of state for a period of up to two (2) years in addition to any fine.



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**28-7-103. No infringement of right to petition or communicate with legislature.**

Nothing in the provisions of this ~~act~~article shall be construed to prohibit or infringe upon the right of a citizen as an individual to petition or to address written or oral communications to members of the legislature.

**28-7-104. Chapter inapplicable to public official.**

This ~~act~~article shall not apply to any public official acting in his official capacity.

**33-38-102. Definitions.**

(a) As used in this act:

(xiv) "This act" means W.S. 33-38-101 through ~~33-38-112~~33-38-113;

[SECTION 4. AUTHORIZATION FOR LEGISLATIVE SERVICE  
OFFICE TO DELETE OBSOLETE DATE REFERENCES]

**Section 401.** W.S. 28-8-105(a)(v) is amended to read:

**28-8-105. Duties of director and services division; prefiling bills; fiscal notes.**

(a) It shall be the duty of the director, through the services division of the office, to perform the following specific functions, together with such other functions as the council may prescribe:

(v) Compile such laws of the state of Wyoming as are designated by the management council. In preparing copy for printing any revision or compilation of laws, deletions

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of obsolete or fully executed date references and  
corrections in punctuation, spelling, grammatical  
construction, section numbers or headings may be made  
provided such deletions and corrections do not alter the  
meaning;

**Section 501.** Other than the 2011 Revisor's bill (2011  
SF0069), any other act adopted by the Wyoming legislature  
during the same session in which this act is adopted shall  
be given precedence and shall prevail over the amendments  
in this act to the extent that such acts are in conflict  
with this act.

**Section 601.** This act is effective July 1, 2011.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk