

SENATE FILE NO. SF0103

Courts-retired judges, constitutional cases and injunctions.

Sponsored by: Senator(s) Boner, Biteman, Crum, Dockstader, Hicks, Kolb, Salazar and Steinmetz and Representative(s) Haroldson, Heiner, Lawley, Lien, Neiman, Rodriguez-Williams, Singh and Washut

A BILL

for

1 AN ACT relating to courts; amending requirements for the
2 assignment of retired judges and justices to active cases;
3 specifying limitations on the assignment of retired
4 justices and judges to service; specifying duties of the
5 Wyoming supreme court; requiring the use of three (3) judge
6 panels for district courts to resolve the constitutionality
7 of statutes and session laws as specified; making
8 conforming amendments; specifying applicability; and
9 providing for an effective date.

10

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

12

13 **Section 1.** W.S. 5-3-114 is created to read:

1

2 **5-3-114. Assignment of panels to resolve**
3 **constitutional issues.**

4

5 (a) Upon written request of the attorney general or a
6 district attorney, a panel of three (3) district judges
7 shall be convened in accordance with this section for any
8 case or action commenced in which the constitutionality of
9 any statute or session law of this state is challenged. For
10 purposes of this subsection, a challenge requiring the
11 convening of a panel shall include any action challenging
12 the constitutionality of a statute or session law in which
13 an injunction restraining the enforcement, operation or
14 execution of the statute or session law is sought.

15

16 (b) Upon the filing of an action or case specified in
17 subsection (a) of this section or upon a party raising an
18 argument challenging the constitutionality of a statute or
19 session law in a filed case or action, the clerk of the
20 district court of the district in which the action or case
21 is filed shall immediately notify the state court
22 administrator.

23

1 (c) The panel of district court judges for actions
2 and cases specified in this section shall consist of:

3
4 (i) One (1) district court judge of the district
5 in which the action or case was filed;

6
7 (ii) Two (2) district court judges from judicial
8 districts other than the district in which the action or
9 case was filed, selected at random by the state court
10 administrator.

11
12 (d) The judge with the most seniority of the three
13 (3) selected judges shall serve as presiding judge of the
14 panel. A majority of two (2) of the three (3) judges
15 selected under this section shall be sufficient to render a
16 decision in an action or case specified in this section.

17
18 (e) For cases or actions commenced in which the
19 constitutionality of any statute or session law of this
20 state is challenged, no one (1) district court judge shall
21 have the jurisdiction to issue a preliminary or permanent
22 injunction to enjoin or restrain the enforcement, operation
23 or execution of a statute or session law, provided that a

1 district court judge may issue a temporary restraining
2 order pending a hearing and determination by a panel
3 convened under this section. A hearing on an injunction
4 shall be held not later than thirty (30) days after the
5 issuance of any temporary restraining order under this
6 subsection.

7

8 (f) The proceedings for any action or case subject to
9 this section may be held in the judicial district in which
10 the action or case was filed or may be conducted using
11 electronic and video means in accordance with rules
12 promulgated by the judicial conference of district judges
13 created in W.S. 5-3-102(b).

14

15 (g) Any appeal from an order or decision by a panel
16 convened under this section shall be to the Wyoming supreme
17 court in accordance with the Wyoming rules of appellate
18 procedure.

19

20 **Section 2.** W.S. 1-28-102, 1-28-103, 1-37-102 and
21 5-1-106(f) are amended to read:

22

1 **1-28-102. Causes for injunction; granting temporary**
2 **order.**

3
4 When it appears by the petition that the plaintiff is
5 entitled to relief consisting of restraining the commission
6 or continuance of some act the commission or continuance of
7 which during the litigation would produce great or
8 irreparable injury to the plaintiff, or when during the
9 litigation it appears that the defendant is doing,
10 threatens to do, or is procuring to be done some act in
11 violation of the plaintiff's rights respecting the subject
12 of the action and tending to render the judgment
13 ineffectual, a temporary order may be granted restraining
14 the act, subject to W.S. 5-3-114. The order may also be
15 granted in any case where it is specially authorized by
16 statute and by municipal ordinance adopted pursuant to W.S.
17 15-1-103(a) (xlvi).

18

19 **1-28-103. When and by whom granted.**

20

21 The injunction may be granted at the time of commencing the
22 action, or at any time before judgment, by the district
23 court or a judge thereof or a panel of judges convened

1 under W.S. 5-3-114, or in the absence from the county of
2 the judge, by the court commissioner of the county, when it
3 appears by affidavit of the plaintiff or his agent that the
4 plaintiff is entitled thereto. When an injunction has been
5 vacated during the pendency of the action in the district
6 court, and an appeal is taken to the supreme court from the
7 judgment or final order after trial in the district court,
8 an injunction may be granted at any time before judgment or
9 final order in the supreme court by a judge of the supreme
10 court, when it appears to the court or judge by affidavit
11 of the party or his agent that the party is entitled
12 thereto. Upon like proof, an injunction may also be allowed
13 by the supreme or district court or by a judge of either as
14 a temporary remedy, during the pendency of a case on error
15 or appeal. Any injunction entered in an action or case in
16 which the constitutionality of a statute or session law is
17 challenged shall be entered in accordance with W.S.
18 5-3-114.

19

20 **1-37-102. Scope and general consideration.**

21

22 (a) Courts of record within their respective
23 jurisdictions may declare rights, status and other legal

1 relations whether or not further relief is or could be
2 claimed. No proceeding is open to objection on the ground
3 that a declaratory judgment or decree is prayed for. The
4 declaration may be either affirmative or negative in form
5 and effect, and such declarations shall have the effect of
6 a final judgment.

7

8 (b) Actions filed under this chapter in which the
9 constitutionality of any statute or session law of this
10 state is challenged shall be resolved by a panel of
11 district court judges in accordance with W.S. 5-3-114.

12

13 **5-1-106. Retirement of judges of the supreme court or**
14 **district courts; pension; assignment of retired judges.**

15

16 (f) Any justice of the supreme court, chancery court
17 judge or district court judge of this state, who has
18 retired pursuant to the provisions of this section, and who
19 is not practicing law, may, notwithstanding his retirement,
20 be called upon, with his consent, at the request of a
21 district court judge or circuit court judge, with the
22 consent of the chief justice, or by the chief justice, and
23 assigned to service on any court. No retired justice or

1 judge shall be assigned under this subsection to service on
2 any court in any case or cause of action in which the
3 constitutionality of any statute or session law of this
4 state is challenged, whether in the initial filing or in a
5 subsequent filing or hearing in the case or action. A
6 retired justice or judge shall receive as a salary during
7 any period of assignment an amount equal to the current
8 compensation of a judge of the court to which he is
9 assigned. The salary received by a retired justice or
10 judge during any period of assignment shall not affect the
11 receipt of any retirement allowance received by the retired
12 justice or judge during the period of assignment.
13 Assignments of retired justices or judges under this
14 section shall only be made in a manner that does not
15 jeopardize the qualified status of state retirement plans
16 established by the Wyoming legislature. When called to
17 serve, a retired judge or justice shall receive the same
18 per diem and travel allowances as allowed active judges or
19 justices. Per diem, allowances and compensation shall be
20 paid from the contingent fund of the court to which the
21 judge or justice is assigned.

22

23 **Section 3.**

1

2 (a) This act shall apply to:

3

4 (i) All actions and cases commenced on and after
5 the effective date of this act;

6

7 (ii) All actions and cases filed before the
8 effective date of this act but in which a challenge to the
9 constitutionality of a statute or session law is raised on
10 and after the effective date of this act;

11

12 (iii) All assignments of retired justices and
13 judges made under W.S. 5-1-106, as amended by section 1 of
14 this act, on and after the effective date of this act.

15

16 (b) Nothing in this act shall be construed to affect
17 the validity of any injunction or order issued before the
18 effective date of this act.

19

20 **Section 4.** This act is effective July 1, 2026.

21

22

(END)