



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE November 1, 2019

TO Joint Judiciary Committee

FROM Brian Fuller, Staff Attorney

SUBJECT 20LSO-0125: Budget and financial data reporting.

Based on the Committee's discussion at its August meeting, this memorandum provides additional information regarding W.S. 9-2-1036, which establishes the Wyoming Public Finance and Expenditure of Funds Website. The Legislature enacted this section in 2009 with amendments in 2012 and a minor amendment in the 2018 Revisor's Bill.¹ W.S. 9-2-1035 (which defines terms for the website provisions) and 9-2-1036 are included at the end of this memorandum. The website was required to come online by January 1, 2010.²

Broadly, the purpose of the website is to "permit Wyoming taxpayers to view and track the use of taxpayer dollars" on the internet on one website without cost.³ Another purpose includes allowing Wyoming citizens to raise concerns relating to either state or local government entities expending funds in a way that unfairly competes with the private sector in providing commercial activities.⁴

Statute limits the information to be included on the website to "public financial information" that is generated on or after July 1, 2009.⁵ "Public financial information" is defined as "official public records as defined in W.S. 16-4-201(a)(vi)(A)" that the Department of Administration and Information requires to made available on the

¹ See 2009 Wyo. Session Laws Ch. 190; 2012 Wyo. Session Laws Ch. 94; 2018 Wyo. Session Laws Ch. 108.

² W.S. 9-2-1036(f).

³ W.S. 9-2-1036(b)(i).

⁴ W.S. 9-2-1036(b)(viii). The ability to lodge complaints via the Internet was required to come online by June 30, 2012. W.S. 9-2-1036(f).

⁵ W.S. 9-2-1036(b)(i) and (ii), (d)(ii), (e); 9-2-1035(a)(v).

website.⁶ For purposes of the website, public financial information does not include information:

- Provided under W.S. 26-34-129 (reports related to health maintenance organizations), 26-34-130 (medical information), 28-8-108 (information in management-audit reports), 35-2-910 (quality management functions for health care facilities), or 35-17-105 (information related to professional standard review organizations);
- Related to workers' compensation benefits paid where the information would reveal the recipient's identity;
- Related to services provided to juveniles under Title 14 or Title 21 where the information would reveal the juvenile's identity; and
- Whose release would violate the federal Health Insurance Portability and Accountability Act (HIPAA) or the Health Care Quality Improvement Act.⁷

Statute provides that only state entities—the University of Wyoming, the three branches of state government, and any department, division, agency, board, commission, or other instrumentality of one of those branches—are required to provide public financial information for the website.⁸

W.S. 9-2-1036(c) imposes requirements on the Department of Administration and Information regarding the website, including:

- Establishing and maintaining the website, including providing equipment, resources, and personnel as necessary;
- Maintaining an archive of all information posted to the website;
- Coordinating and processing the receipt of public financial information from participating state entities.⁹

⁶ W.S. 9-2-1035(a)(v). "Official public records" include "all original vouchers, receipts and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which a governmental entity is a party; all fidelity, surety and performance bonds; all claims filed against a governmental entity; all records or documents required by law to be filed with or kept by a governmental entity of Wyoming; and all other documents or records determined by the records committee to be official public records." W.S. 16-4-201(a)(vi)(A).

⁷ W.S. 9-2-1035(a)(v)(A)–(D).

⁸ See W.S. 9-2-1035(a)(iv); 9-2-1036(d)(ii).

⁹ W.S. 9-2-1036(c).

Statute also allows the Department to:

- Develop plans and make recommendations to the Joint Appropriations Committee related to implementing the website;¹⁰
- Evaluate the cost effectiveness of implementing specific resources and features on the website, and report that information to the Joint Appropriations Committee;¹¹
- Determine what public financial information must be provided by state entities for the website, subject to the following:
 - Only those records classified as official public records under W.S. 16-4-201 through 16-4-205 can be included.
 - The record is an accounting of monies, funds, accounts, bonds, loans, expenditures, or revenues.
 - The state entity owns, holds, or administers the record to be provided.¹²
 - Further, the record to be posted on the website must be specified based on the cost effectiveness of providing the information, the value of providing the information to the public, and privacy and security implications.¹³

Put another way, the Department of Administration and Information has discretion to decide what information is required from state entities and how that information must be provided, subject to the requirements of W.S. 9-2-1036(d)(ii).

Statute also requires the Department to adopt rules to require participating state entities to provide public financial information to include on the website; to establish procedures for submitting, posting, and storing public financial information on the website; and to require a state entity to list certain information regarding expenditures for inclusion on the website.¹⁴

Finally, the Chief Information Officer of the state must provide an annual report to the Joint Appropriations Committee regarding the website, the number of concerns regarding unfair competition the Department received that year, and the disposition and resolution of those concerns.¹⁵

If you need further information or more research, please let me know.

¹⁰ W.S. 9-2-1036(d)(i).

¹¹ W.S. 9-2-1036(d)(iii).

¹² W.S. 9-2-1036(d)(ii)(A).

¹³ W.S. 9-2-1036(d)(ii)(B).

¹⁴ W.S. 9-2-1037(a) and (b).

¹⁵ W.S. 9-2-1036(g).

Below are the statutes associated with the Wyoming Public Finance and Expenditure of Funds Website.

9-2-1035. Definitions.

(a) As used in this act:

(i) "Committee" means the joint appropriations committee;

(ii) "Department" means the department of administration and information;

(iii) "Internet" means the internet, World Wide Web or a similar proprietary or common carrier electronic system;

(iv) "Participating state entity" or "state entity" means the state of Wyoming government including the executive, legislative and judicial branches of government and any department, division, agency, board, commission or other instrumentality of those branches. For purposes of W.S. 9-2-1036(b)(viii), "state entity" shall also include the University of Wyoming;

(v) "Public financial information" means official public records as defined in W.S. 16-4-201(a)(vi)(A) that are required to be made available on the Wyoming public finance and expenditure of funds website as required by this act, but shall not include any information:

(A) Provided pursuant to W.S. 26-34-129, 26-34-130, 28-8-108, 35-2-910 or 35-17-105;

(B) Relating to benefits paid under the Worker's Compensation Act that would reveal the identity of the recipient;

(C) Relating to services provided to juveniles under title 14 or title 21 of the Wyoming statutes that would reveal the identity of the juvenile or his family;

(D) That would violate the Health Insurance Portability and Accountability Act or the Health Care Quality Improvement Act.

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(vi) "Local government entity" means any county, municipality, joint powers board or special district of Wyoming;

(vii) "This act" means W.S. 9-2-1035 through 9-2-1037.

9-2-1036. Wyoming public finance and expenditure of funds website.

(a) There is created the Wyoming public finance and expenditure of funds website to be administered by the department.

(b) The purpose of the Wyoming public finance and expenditure of funds website is to:

(i) Permit Wyoming taxpayers to view and track the use of taxpayer dollars by making participating state entities' public financial information available on the internet;

(ii) Allow a person who has internet access to use the website without paying a fee;

(iii) Allow the public to search public financial information on the Wyoming public finance and expenditure of funds website using criteria established by the department;

(iv) Provide access to financial reports, financial audits, budgets or other financial documents that are used to allocate, appropriate, spend and account for government funds as may be established by rule under W.S. 9-2-1037;

(v) Have a unique and simplified website address;

(vi) Be directly accessible via a link from the main page of the official state website;

(vii) Include other links, features or functions that will assist the public in obtaining and reviewing public financial information; and

(viii) Allow Wyoming citizens to lodge concerns relating to Wyoming state or local government entities expending funds in a manner which the citizen believes unfairly competes

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with the private sector in providing commercial activities. At a minimum, in implementing this paragraph, the website shall include:

(A) A link entitled "government competition concerns" which contains a means for a citizen to lodge a concern with governmental competition including:

(I) The entity involved;

(II) The activity involved;

(III) Whether the concern is a result of a specific instance or ongoing activity;

(IV) The effect of the competition on the citizen's commercial activity, if applicable;

(V) A means to contact the citizen for further information, if necessary.

(B) Access to all information submitted pursuant to this paragraph, including access to summary data.

(c) The department shall:

(i) Establish and maintain the website, including the provision of equipment, resources and personnel as necessary;

(ii) Maintain an archive of all information posted to the website;

(iii) Coordinate and process the receipt and posting of public financial information from participating state entities.

(d) The department may:

(i) Develop plans and make recommendations to the committee related to the implementation of the provisions of this act;

(ii) Determine what public financial information shall be provided by participating state entities, provided that the public financial information:

(A) Only includes records that:

(I) Are classified as official public records under W.S. 16-4-201 through 16-4-205;

(II) Are an accounting of monies, funds, accounts, bonds, loans, expenditures or revenues, regardless of source; and

(III) Are owned, held or administered by the participating state entity that is required to provide the record.

(B) Is of the type or nature that should be accessible to the public via a website based on considerations of:

(I) The cost effectiveness of providing the information;

(II) The value of providing the information to the public; and

(III) Privacy and security implications.

(iii) Evaluate the cost effectiveness of implementing specific information resources and features on the website and report that information to the committee.

(e) A participating state entity shall permit the public to view the public financial information of the participating state entity via the website, beginning with information that is generated on or after July 1, 2009.

(f) Not later than January 1, 2010, the website shall be operational and permit access to the public financial information of participating state entities. Not later than June 30, 2012 the website shall incorporate features implementing the provisions of paragraph (b)(viii) of this section.

(g) The state chief information officer shall provide an annual report to the committee on all initiatives, projects and expenditures under this act. Beginning July 1, 2013, the annual report shall include:

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(i) The number of concerns with unfair competition received;

(ii) For each government entity subject to a lodged concern, the number of concerns lodged and number of citizens lodging concerns;

(iii) For each state entity which is the subject of a concern, a summary of the complaint and any action the entity reports to the department that was taken in response to the complaint.

9-2-1037. Rulemaking authority.

(a) The department shall adopt rules to:

(i) Require participating state entities to provide public financial information for inclusion on the Wyoming public finance and expenditure of funds website provided legislative appropriations are available to permit entities to generate the information;

(ii) Define the term "public financial information" as it applies to participating state entities in accordance with the provisions of this act; and

(iii) Establish procedures for obtaining, submitting, reporting, storing and providing public financial information on the Wyoming public finance and expenditure of funds website which may include a specified reporting frequency and form.

(b) The department may adopt rules to require a participating entity to list the following information regarding expenditures made by a person under a contract with the participating entity:

(i) The name of the participating entity making the expenditure;

(ii) The name of the person receiving the expenditure;

(iii) The date of the expenditure;

- (iv) The amount of the expenditure;
- (v) The purpose of the expenditure;
- (vi) The name of each party to the contract;
- (vii) An electronic copy of the contract; and
- (viii) Any other criteria designated by rule of the department.