
APPENDIX A

Selected Statutes

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Attorney General Statutes, W.S. 9-1-601 - 9-1-638 (excerpts)**9-1-601. Appointment; term; removal; special assistant for legislative affairs; qualifications.**

(a) The attorney general of the state of Wyoming shall be appointed by the governor with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103 and may be removed by the governor as provided in W.S. 9-1-202.

(b) If a newly elected governor appoints an attorney general to take office prior to or during the legislative session next following the governor's election, the newly appointed attorney general designee shall become a member of the attorney general's staff to serve as a special assistant to the governor for legislative affairs. When the legislative session adjourns the attorney general's term of office shall terminate.

(c) Prior to his appointment, the attorney general shall have been a practicing attorney for at least four (4) years. At the date of appointment, he shall be in good standing in the courts of record of this state and shall be a resident and elector of the state.

9-1-602. Vacancy in office.

In case of a vacancy in the office of attorney general the governor shall appoint a qualified person to fill the vacancy in accordance with the provisions of W.S. 28-12-101(b).

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:

(i) Prosecute and defend all suits instituted by or against the state of Wyoming, the prosecution and defense of which is not otherwise provided for by law;

(ii) Represent the state in criminal cases in the supreme court;

(iii) Defend suits brought against state officers in their official relations, except suits brought against them by the state;

(iv) Represent the state in suits, actions or claims in which the state is interested in either the Wyoming supreme court or any United States court;

(v) Be the legal adviser of all elective and appointive state officers and of the county and district attorneys of the state;

(vi) When requested, give written opinions upon questions submitted to him by elective and appointive state officers and by either branch of the legislature, when in session;

(vii) Effective July 1, 2000, serve as the designated agency to administer the governor's planning council on developmental disabilities. A memorandum of understanding shall be executed by and between the designated agency and the

governor's planning council, which shall incorporate the provisions of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6024.

(b) With the approval of the governor the attorney general may retain qualified practicing attorneys to prosecute fee-generating suits for the state if expertise in a particular field is desirable.

(c) Upon the failure or refusal of any district or county attorney to act in any criminal or civil case or matter in which the county, state or any agency thereof is a party, or has an interest, the attorney general may, at the request of the board of county commissioners of the county involved or of the district judge of the judicial district involved, act on behalf of the county, state or any agency thereof, if after a thorough investigation the action is deemed advisable by the attorney general. The cost of investigation and the cost of any prosecution arising therefrom shall be paid out of the general fund of the county where the investigation and prosecution take place. The attorney general shall also, upon direction of the governor, investigate any matter in any county of the state in which the county, state or any agency thereof may be interested. After investigation, the attorney general shall submit a report of the investigation to the governor and to the district or county attorney of each county involved and may take such other action as he deems appropriate.

(d) When requested by a county or district attorney, the attorney general may assign a member of his staff who is experienced in trial work and in the prosecution of criminal cases to assist in the prosecution of a felony.

9-1-604. Office in state capitol building; private practice prohibited; exception.

The attorney general shall keep an office in the state capitol building, shall not open an office elsewhere and shall not engage in any private practice except to consummate business pending at the time of his appointment if not in conflict with the duties of his office.

9-1-605. Approval of public securities and official bonds; water rights proceedings; investigation of misconduct of county official; report to governor; commencement of action.

(a) The attorney general shall examine, pass upon and approve:

- (i) Public securities before permanent funds of the state are invested in them;
- (ii) Official bonds executed by state officers.

(b) Under the direction of the governor the attorney general shall institute and pursue proceedings to maintain the state's and its citizens' rights in the waters of interstate streams.

(c) Upon representation to the governor of misconduct or malfeasance in office or the commission of a crime by any county officer in the state and if the governor believes the ends of justice demand or the matter will not be properly investigated and prosecuted by the sheriff and by the district attorney of the county, the governor may direct the attorney general to investigate the case.

(d) Upon completion of the investigation, the attorney general shall report the results of the investigation and his recommendations to the governor. If the governor and the attorney general determine that the attorney general should institute a criminal or civil action, the attorney general shall commence the action. The attorney general shall have the authority and duty vested in district attorneys in this state.

9-1-606. "State official"; defense thereof in civil suit; reimbursement of state.

(a) For the purposes of this section, "state official" means the head of any state agency or an elected state executive official.

(b) When any state official is sued for an official act in a civil lawsuit not involving a tort action governed by W.S. 1-39-104, the attorney general shall provide defense counsel from the attorney general's office or by contracting with private counsel at state expense.

(c) If the judgment in the lawsuit finds the state official was acting outside the scope of his employment, the state official shall reimburse the state for all expenditures made in his defense.

(d) This section shall not be construed to limit the right or obligation of the state to defend any state employee.

9-1-607. Deputy attorneys general; appointment; qualifications; term; duties; certificate of appointment and oath of office.

(a) The attorney general may appoint two (2) deputies, one (1) for civil affairs and one (1) for criminal affairs. Each deputy shall be a member of the Wyoming bar in good standing and shall serve at the pleasure of the attorney general. Each deputy shall have the qualifications and perform the duties required by the attorney general.

(b) When a deputy is appointed the attorney general shall file in the office of the secretary of state a certificate of appointment and the official oath of office of the deputy. The deputy shall not perform any official act until the certificate has been filed.

9-1-608. Assistant attorneys general.

(a) With the approval of the governor, the attorney general may appoint assistant attorneys general necessary for the efficient operation of his office. Each assistant attorney general shall be a member in good standing of the Wyoming bar and shall serve at the pleasure of the attorney general. The assistants shall act under the direction of the attorney general and his deputies. The attorney general, his deputies or his assistants may appear in any courts of the state or the United States and prosecute or defend on behalf of the state. An appearance by the attorney general or his staff does not waive the sovereign immunity of the state.

(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.

(c) At the request of any state department, board, agency, commission or institution, the attorney general may assign special assistant attorneys general to the department, board, agency, commission or institution.

9-1-609. Salary of deputy attorneys general.

The deputy attorneys general shall receive an annual salary determined by the personnel division.

9-1-610. Administrative and clerical personnel.

Subject to the rules of the personnel division, the attorney general may employ administrative and clerical personnel necessary for the efficient operation of his office.

Statute Mandating Attorney General Review of Contracts

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

(b) The state auditor shall not draw warrants:

(v) For payment on a contract for professional consultant or other services unless the agency has certified that the contract for the services has been reduced to writing before the services are performed, and that the contract is in compliance with procedures of the attorney general, is approved by the attorney general, and is filed with and approved by the department of administration and information. For payment on a contract for professional or other services entered into by the department of transportation, filing of the contract with and approval by the department of administration and information and approval by the attorney general is not required, however the attorney general shall first review the contract if the contract is over twenty thousand dollars (\$20,000.00);

**Statute Mandating Attorney General Representation of
Workers' Safety and Compensation Division**

27-14-602. Contested cases generally.

(a) A hearing examiner designated by the office of administrative hearings created by W.S. 9-2-2201 shall conduct contested cases under this act in accordance with this section.

(b) Upon receipt of a request for hearing from the division as provided in W.S. 27-14-601(k)(v), the case shall be determined by a hearing examiner in accordance with the law in effect at the time of the injury as a small claims hearing or as a contested case hearing subject to the following:

(ii) All other requests for hearing not specified under paragraph (b)(i) of this section shall be conducted as a contested case in accordance with procedures of the Wyoming Administrative Procedure Act and the Wyoming Rules of Civil Procedure as applicable under rules of the office of administrative hearings. The hearing examiner designated by the office

of administrative hearings shall render a decision in a contested case within thirty (30) days after the close of the record. If the contested case is heard by the hearing panel created pursuant to W.S. 27-14-616(b)(iv), the panel shall render a decision within forty-five (45) days after the close of the record;

(iii) Appeals may be taken from the decision rendered in any small claims hearing or contested case hearing by any affected party to the district court as provided by the Wyoming Administrative Procedure Act;

(iv) Hearings under this section shall be held at a location mutually convenient to the parties, as determined by the hearing officer. If the injury occurs at a location outside Wyoming, the hearing shall be held in the county in which the employer's principal place of business is located, unless the hearing officer determines a different location is more convenient to the parties;

(v) Any hearing conducted pursuant to this section involving multiple sites may be conducted through audio or video conferencing at the discretion of the hearing officer or hearing panel.

(c) All written reports, claims and other documents filed with the division shall be considered as pleadings in the case. The attorney general's office shall represent the division in all contested cases. The hearing examiner has exclusive jurisdiction to make the final administrative determination of the validity and amount of compensation payable under this act. Except as otherwise specified in this subsection, all court costs shall be paid from the worker's compensation account if the judgment is in favor of the employer or the division. If judgment is against the employer and the employer contested the claim without being joined in the contest by the division, the court costs shall be paid by the employer. When the employer or division prevails, the court costs shall not affect the employer's experience rating. If judgment is against a health care provider, the court costs shall be paid by the health care provider.

Wyoming Administrative Procedure Act, W.S. 16-3-101 - 16-3-115 (excerpts)

16-3-101. Short title; definitions.

(a) This act may be cited as the "Wyoming Administrative Procedure Act".

(b) As used in this act:

(i) "Agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, a county, city or town or other political subdivision of the state, except the governing body of a city or town, the state legislature, the University of Wyoming and the judiciary;

(ii) "Contested case" means a proceeding including but not restricted to ratemaking, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing but excludes designations under W.S. 9-2-1022(h)(i);

(iii) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but it does not include a license required solely for revenue purposes;

(iv) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license;

(v) "Local agency" means any agency with responsibilities limited to less than statewide jurisdiction, except the governing body of a city or town;

(vi) "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party;

(vii) "Person" means any individual, partnership, corporation, association, municipality, governmental subdivision or public or private organization of any character other than an agency;

(viii) "Registrar of rules" for state agency rules means the secretary of state. "Registrar of rules" for local agency rules means the county clerk of the county in which the rule is to be effective;

(ix) "Rule" means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(A) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(B) Rulings issued pursuant to W.S. 16-3-106; or

(C) Intraagency memoranda; or

(D) Agency decisions and findings in contested cases; or

(E) Rules concerning the use of public roads or facilities which are indicated to the public by means of signs and signals; [or]

(F) Ordinances of cities and towns; [or]

(G) Designations under W.S. 9-2-1022(h)(i).

(x) "State agency" means any agency with statewide responsibilities;

(xi) "This act" means W.S. 16-3-101 through 16-3-115.

16-3-102. General rulemaking requirements; assistance of attorney general.

- (a) In addition to other rulemaking requirements imposed by law, each agency shall:
- (i) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases;
 - (ii) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions;
 - (iii) Make available for public inspection all final orders, decisions and opinions.
- (c) In formulating rules of practice as required by this section, each agency may request the assistance of the attorney general and upon request the attorney general shall assist the agency or agencies in the preparation of rules of practice.

16-3-103. Adoption, amendment and repeal of rules; notice; hearing; emergency rules; proceedings to contest; review and approval by governor.

- (a) Prior to an agency's adoption, amendment or repeal of all rules other than interpretative rules or statements of general policy, the agency shall:
- (i) Give at least forty-five (45) days notice of its intended action. Notice shall be mailed to all persons making timely requests of the agency for advanced notice of its rulemaking proceedings and to the attorney general, the secretary of state's office as registrar of rules, and the legislative service office if a state agency. The agency shall submit a copy of the proposed rules, in a format conforming to any requirements prescribed pursuant to subsection (f) of this section, with the notice given to the legislative service office. The notice shall include:

16-3-112. Contested cases; presiding officers; qualifications; powers; outside personnel; hearing officers.

- (c) In all contested cases to the extent that it is necessary in order to obtain compliance with W.S. 16-3-111 the agency (excepting county and municipal agencies and political subdivisions on the county and local level) may request the office of the attorney general to furnish to the agency such personnel as may be necessary in order for the agency to properly investigate, prepare, present and prosecute the contested case before the agency. The attorney general upon the receipt of the request shall promptly comply with same with no charge being made against the requesting agency's appropriation other than for travel and per diem expenses.

Title 33: Board Legal Representation Funding Mechanism Statute**33-1-201. Fees generally.**

- (a) Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under title 23 shall establish those fees in accordance with the following:

(i) Fees shall be established by rule or regulation promulgated in accordance with the Wyoming Administrative Procedure Act;

(ii) Fees shall be established in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates, but does not exceed, the direct and indirect costs of administering the regulatory provisions required for the profession or occupation under this title;

(iii) The board or commission shall maintain records sufficient to support the fees charged.

33-1-202. Disposition of fees and interest.

(a) Except as otherwise specifically provided by statute:

(i) All fees and monies received and collected by the boards or commissions under this title and under W.S. 11-25-105(d), 21-2-802(d) and 23-2-414(d) shall be deposited into the state treasury and credited to each board's or commission's respective account as created by statute;

(ii) The interest on all fees and monies collected by the boards or commissions under this title and under W.S. 11-25-105(d), 21-2-802(d) and 23-2-414(d) shall be credited as follows:

(A) An amount equal to the first fifty percent (50%) of the interest earned from the previous year shall be deposited into an account within the enterprise fund to be used to fund legal services provided to the boards and commissions by the attorney general; and

(B) The remainder of the interest shall be deposited in each board's or commission's respective account as created by statute.

Wyoming Government Claims Act, W.S. 1-39-101 - 1-39-121 (excerpts)

1-39-101. Short title.

This act shall be known and cited as the "Wyoming Governmental Claims Act".

1-39-102. Purpose.

(a) The Wyoming legislature recognizes the inherently unfair and inequitable results which occur in the strict application of the doctrine of governmental immunity and is cognizant of the Wyoming Supreme Court decision of *Oroz v. Board of County Commissioners* 575 P. 2d 1155 (1978). It is further recognized that the state and its political subdivisions as trustees of public revenues are constituted to serve the inhabitants of the state of Wyoming and furnish certain services not available through private parties and, in the case of the state, state revenues may only be expended upon legislative appropriation. This act is adopted by the legislature to balance the respective equities between persons injured by governmental actions and the taxpayers of the state of Wyoming whose revenues are utilized by governmental entities on

behalf of those taxpayers. This act is intended to retain any common law defenses which a defendant may have by virtue of decisions from this or other jurisdictions.

(b) In the case of the state, this act abolishes all judicially created categories such as "governmental" or "proprietary" functions and "discretionary" or "ministerial" acts previously used by the courts to determine immunity or liability. This act does not impose nor allow the imposition of strict liability for acts of governmental entities or public employees.

1-39-103. Definitions.

(a) As used in this act:

(i) "Governmental entity" means the state, University of Wyoming or any local government;

(ii) "Local government" means cities and towns, counties, school districts, joint powers boards, airport boards, public corporations, community college districts, special districts and their governing bodies, all political subdivisions of the state, and their agencies, instrumentalities and institutions;

(iii) "Peace officer" means as defined by W.S. 7-2-101, but does not include those officers defined by W.S. 7-2-101(a)(iv)(K);

(iv) "Public employee":

(A) Means any officer, employee or servant of a governmental entity, including elected or appointed officials, peace officers and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(B) Does not include an independent contractor, except as provided in subparagraph (C) of this paragraph, or a judicial officer exercising the authority vested in him;

(C) Includes contract physicians in the course of providing contract services for state institutions;

(D) Includes individuals engaged in search and rescue operations under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii) and the provisions of W.S. 1-39-112 shall apply for purposes of damages resulting from bodily injury, wrongful death or property damage caused by their negligence while acting within the scope of their duties;

(E) Includes any volunteer physician providing medical services under W.S. 9-2-103(a)(iii).

(v) "Scope of duties" means performing any duties which a governmental entity requests, requires or authorizes a public employee to perform regardless of the time and place of performance; and

(vi) "State" or "state agency" means the state of Wyoming or any of its branches, agencies, departments, boards, instrumentalities or institutions;

(vii) "Year 2000 date change" means the change from calendar year 1999 AD to 2000 AD and associated date computations including the proper recognition of the year 2000 as a leap year;

(viii) "This act" means W.S. 1-39-101 through 1-39-121.

1-39-104. Granting immunity from tort liability; liability on contracts; exceptions.

(a) A governmental entity and its public employees while acting within the scope of duties are granted immunity from liability for any tort except as provided by W.S. 1-39-105 through 1-39-112 and limited by W.S. 1-39-121. Any immunity in actions based on a contract entered into by a governmental entity is waived except to the extent provided by the contract if the contract was within the powers granted to the entity and was properly executed and except as provided in W.S. 1-39-121. The claims procedures of W.S. 1-39-113 apply to contractual claims against governmental entities.

(b) When liability is alleged against any public employee, if the governmental entity determines he was acting within the scope of his duty, whether or not alleged to have been committed maliciously or fraudulently, the governmental entity shall provide a defense at its expense.

(c) A governmental entity shall assume and pay a judgment entered under this act against any of its public employees, provided:

(i) The act or omission upon which the claim is based has been determined by a court or jury to be within the public employee's scope of duties;

(ii) The payment for the judgment shall not exceed the limits provided by W.S. 1-39-118; and

(iii) All appropriate appeals from the judgment have been exhausted or the time has expired when appeals may be taken.

(d) A governmental entity shall assume and pay settlements of claims under this act against its public employees in accordance with W.S. 1-39-115, 1-41-106 or 1-42-107.

1-39-105. Liability; operation of motor vehicles, aircraft and watercraft.

1-39-106. Liability; buildings, recreation areas and public parks.

1-39-107. Liability; airports.

1-39-108. Liability; public utilities.

1-39-109. Liability; medical facilities.

A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation of any public hospital or in providing public outpatient health care.

1-39-110. Liability; health care providers.

(a) A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of health care providers who are employees of the governmental entity, including contract physicians who are providing a service for state institutions, while acting within the scope of their duties.

(b) Notwithstanding W.S. 1-39-118(a), for claims under this section against a physician employed by the state of Wyoming based upon an act, error or omission occurring on or after May 1, 1988, the liability of the state shall not exceed the sum of one million dollars (\$1,000,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence nor exceed the sum of one million dollars (\$1,000,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

1-39-111. Repealed by Laws 1986, ch. 89, § 3.

1-39-112. Liability; peace officers.

A governmental entity is liable for damages resulting from tortious conduct of peace officers while acting within the scope of their duties.

1-39-113. Claims procedure.

(a) No action shall be brought under this act against a governmental entity unless the claim upon which the action is based is presented to the entity as an itemized statement in writing within two (2) years of the date of the alleged act, error or omission, except that a cause of action may be instituted not more than two (2) years after discovery of the alleged act, error or omission, if the claimant can establish that the alleged act, error or omission was:

(i) Not reasonably discoverable within a two (2) year period; or

(ii) The claimant failed to discover the alleged act, error or omission within the two (2) year period despite the exercise of due diligence.

(b) The claim shall state:

(i) The time, place and circumstances of the alleged loss or injury including the name of the public employee involved, if known;

(ii) The name, address and residence of the claimant and his representative or attorney, if any; and

(iii) The amount of compensation or other relief demanded.

(c) All claims against the state shall be presented to the general services division of the department of administration and information. Claims against any other governmental entity

shall be filed at the business office of that entity. In the case of claims against local governments the claim submitted need not be acted upon by the entity prior to suit.

1-39-114. Statute of limitations.

Except as otherwise provided, actions against a governmental entity or a public employee acting within the scope of his duties for torts occurring after June 30, 1979 which are subject to this act shall be forever barred unless commenced within one (1) year after the date the claim is filed pursuant to W.S. 1-39-113. In the case of a minor seven (7) years of age or younger, actions against a governmental entity or public employee acting within the scope of his duties for torts occurring after June 30, 1979 which are subject to this act are forever barred unless commenced within two (2) years after occurrence or until his eighth birthday, whichever period is greater. In no case shall the statute of limitations provided in this section be longer than any other applicable statute of limitations. In the absence of applicable insurance coverage, if the claim was properly filed, the statute shall be tolled forty-five (45) days after a decision by the entity, if the decision was not made and mailed to the claimant within the statutory time limitation otherwise provided herein.

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

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

(b) Venue for any claim against the state or its public employees pursuant to this act shall be in the county in which the public employee resides or the cause of action arose or in Laramie county. Venue for all other claims pursuant to this act shall be in the county in which the defendant resides or in which the principal office of the governmental entity is located.

(c) The right to a trial by jury is preserved.

(d) If a governmental entity has elected to purchase liability insurance under this act, the court, in a trial without a jury, may be advised of the insurance.

1-39-118. Maximum liability; insurance authorized.

(a) Except as provided in subsection (b) of this section, in any action under this act, the liability of the governmental entity, including a public employee while acting within the scope of his duties, shall not exceed:

(i) The sum of two hundred fifty thousand dollars (\$250,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence; or

(ii) The sum of five hundred thousand dollars (\$500,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

State Self Insurance Program, W.S. 1-41-101 - 1-41-111
(excerpts from authorizing statutes)

1-41-101. Legislative findings and intent.

The legislature recognizes that certain liability insurance policies of the state of Wyoming have been cancelled, that no responsive bids have been received and that there exists a need to develop a method to handle claims brought under the Wyoming Governmental Claims Act and arising under federal law. The legislature declares that the appropriate remedy is to create an account for self-insurance of the state and to provide for a loss prevention program. It is the intent of the legislature that the self-insurance account shall be operated on an actuarially sound basis. The legislature further declares that its intent is that the availability of commercial liability insurance coverage shall be explored considering the possibility that the insurance industry can provide coverage in the future that is less expensive than the costs of providing a loss prevention program and paying for claims out of the self-insurance account.

1-41-102. Definitions.

(a) As used in this act:

(i) "Division" means the general services division of the department of administration and information;

(ii) "Final money judgment" means any judgment for monetary damages after all appropriate appeals from the judgment have been exhausted or after the time has expired when appeals may be taken;

(iii) "Local government" means as defined by W.S. 1-39-103(a)(ii);

(iv) "Peace officer" means as defined by W.S. 7-2-101, but does not include those officers defined by W.S. 7-2-101(a)(iv)(K);

(v) "Public employee" means any officer, employee or servant of the state, provided the term:

(A) Includes elected or appointed officials, peace officers and persons acting on behalf or in service of the state in any official capacity, whether with or without compensation, including volunteer physicians providing medical services under W.S. 9-2-103(a)(iii);

(B) Does not include:

(I) An independent contractor except as provided in subparagraph (C) of this paragraph;

(II) A judicial officer exercising the authority vested in him; or

(III) Any local government employees or officials including county and prosecuting attorneys.

(C) Includes contract physicians in the course of providing contract services for state institutions.

(vi) "Risk manager" means the manager of the risk management section of the general services division of the department of administration and information;

(vii) "Scope of duties" means performing any duties which the state requests, requires or authorizes a public employee to perform, or which the University of Wyoming or a local government requests, requires or authorizes a peace officer to perform, regardless of the time and place of performance;

(viii) "State" or "state agency" means the state of Wyoming or any of its branches, agencies, departments, boards, instrumentalities or institutions but does not include the University of Wyoming except as provided by W.S. 1-41-110(b);

(ix) "Self-insurance account" or "account" means the account created by W.S. 1-41-103;

(x) "This act" means W.S. 1-41-101 through 1-41-111.

1-41-103. Self-insurance account; creation; authorized payments.

(a) There is created the state self-insurance account within the earmarked revenue fund. The account shall be in such amount as the legislature determines to be reasonably sufficient to meet anticipated claims. In addition to any legislative appropriation, the account shall include all authorized transfers of monies to the account, all income from investments of monies in the account and payments by insurance or reinsurance companies. The account may be divided into subaccounts for purposes of administrative management. Appropriations to the account shall not lapse at the end of any fiscal period.

(b) The self-insurance account shall maintain sufficient reserves for incurred but unpaid claims as well as incurred but unreported claims.

(c) Expenditures shall be made out of the self-insurance account for the following claims which have been settled or reduced to final judgment:

(i) Claims brought against the state or its public employees under the Wyoming Governmental Claims Act, provided any amount up to two thousand five hundred dollars (\$2,500.00) paid for or in defense of each claim involving an automobile, physical damage, a settlement or adverse judgment shall be reimbursed to the self-insurance account by the state agency, from its existing budget, against which the claim is brought or which employs the public employee against whom the claim is brought;

(ii) Claims against the state or its public employees, or a state judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes, which the state has obligated itself to pay under subsection (e) of this section, provided any amount up to two thousand five hundred dollars (\$2,500.00) paid for or in defense of each claim resulting in settlement or adverse judgment shall be reimbursed to the self-insurance

account by the state agency, from its existing budget, against which the claim is brought or which employs the public employee against whom the claim is brought;

(iii) Claims against a peace officer employed by the Wyoming state board of outfitters and professional guides, the University of Wyoming or a local government brought under the Wyoming Governmental Claims Act, provided:

(A) The act or omission upon which the claim is based has been determined by a court or jury to be within the peace officer's scope of duties;

(B) The indemnification for the judgment shall not exceed the limits provided by W.S. 1-39-118; and

(C) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim shall be paid on a dollar for dollar matching basis from the fund and from the University of Wyoming or the local government employing the peace officers; and

(D) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim against a peace officer employed by the Wyoming state board of outfitters and professional guides shall be paid by the board.

(iv) Claims against a peace officer employed by the Wyoming state board of outfitters and professional guides, the University of Wyoming or a local government arising under 42 U.S.C. 1983 or other federal statutes, provided:

(A) Any amount up to twenty thousand dollars (\$20,000.00) paid from the account for or in defense of each claim shall be paid on a dollar for dollar matching basis from the fund and from the University of Wyoming or the local government employing the peace officer;

(B) Any amount up to twenty thousand dollars (\$20,000.00) paid for or in defense of each claim against a peace officer employed by the Wyoming state board of outfitters and professional guides shall be paid by the board; and

(C) The conditions and limitations of subsection (e) of this section apply to all claims under this paragraph.

(v) Claims against contract physicians brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician is unable to procure medical malpractice insurance coverage up to the limits specified in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

(B) The liability of the state shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from services performed by the contract physician for a state institution.

(d) Expenditures may also be made out of the self-insurance account for:

(i) Expenses related to claims under subsection (c) of this section;

(ii) Costs of purchasing services, including loss prevention, risk and claims control, and legal, actuarial, investigative, support and adjustment services; and

(iii) Costs of insurance or reinsurance premiums consistent with market availability;

(iv) Administrative expenses incurred by the division under this act including the cost of necessary personnel within the office of the attorney general, as may be mutually agreed upon by the risk manager and the attorney general, to handle claims arising under this act.

(e) The state shall defend claims against its public employees, or a state judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes, subject to the following conditions:

(i) The state shall defend and, to the extent provided by paragraph (v) of this subsection, indemnify any of its public employees against any claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the scope of duty;

(ii) Repealed by Laws 1988, ch. 50, § 2.

(iii) If any civil action, suit or proceeding is brought against any public employee of the state which on its face falls within the provisions of paragraph (i) of this subsection, or which the public employee asserts to be based in fact upon an alleged act or omission in the scope of duty, the state shall appear and defend the public employee under an automatic reservation of right by the state to reject the claim unless the act or omission is determined to be within the scope of duty;

(iv) Any public employee of the state against whom a claim within the scope of this subsection is made shall cooperate fully with the state in the defense of the claim. If the state determines that the public employee has not cooperated or has otherwise acted to prejudice defense of the claim, the state may at any time reject the defense of the claim;

(v) Unless the act or omission upon which a claim is based is determined by the court or jury to be within the public employee's scope of duty, no public funds shall be expended in payment of the final judgment against the public employee;

(vi) Nothing in this subsection shall be deemed to:

(A) Increase the limits of liability under W.S. 1-39-118 for claims brought under the Wyoming Governmental Claims Act;

(B) Affect the liability of the state itself or of any of its public employees on any claim arising out of the same accident or occurrence; or

(C) Waive the protection of the state or its public employees from liability where immunity has not been specifically waived.

Statutes Authorizing Non-Competitive Contracting for Professional Services

9-2-1016. General services division.

(a) As used in this section:

(i) "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any supplies or services. It also includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration;

(ii) "Services" means the furnishing of labor, time or effort by a contractor to an agency. The term does not include employment agreements;

(iii) "Supplies" means:

(A) All property, including but not limited to, furniture, fixtures, stationery, printing, paper, fuel and equipment of every kind required for use in the offices, service and functions performed by agencies, and for repairing, heating and lighting the state buildings; and

(B) Insurance and bonds from licensed Wyoming agents as required.

(b) For the purpose of this subsection the term "agencies" does not include the University of Wyoming, community college districts, or school districts. It does not include the department of transportation except as to paragraphs (xi), (xii) and (xiii) of this subsection. The department through the general services division shall:

(i) Adopt rules governing the procurement, management, control and disposal of all supplies and services required by agencies. The rules shall establish standards and procedures which promote fair and open competition. No agency shall procure supplies or services except in compliance with the rules adopted by the department;

(ii) Adopt standard forms and procedures for regulating the procurement of supplies or services required by agencies;

(iii) Adopt a uniform commodity classification system designating the quality, material and brand of supplies or services required by agencies;

(iv) Adopt standard forms and procedures providing that bids or contracts for supplies or services shall be awarded through the use of competitive sealed bidding, competitive negotiation, noncompetitive negotiation or small purchase procedures as hereafter provided:

(A) Bids or contracts for supplies or services in excess of seven thousand five hundred dollars (\$7,500.00) shall be made by competitive sealed bidding when the configuration or performance specifications, or both, are sufficiently designed to

permit award on the basis of the lowest evaluated price as determined in accordance with objective, measurable criteria set forth in the invitation for bids, and when available sources, the time and place of performance, and other conditions are appropriate for the use of competitive sealed bidding;

(B) Whenever the administrator determines in writing that the use of competitive sealed bidding is not feasible or practical, contracts for supplies or services may be made by competitive negotiation;

(C) Contracts may be made by noncompetitive negotiation only when competition is not feasible, as determined in writing prior to award by the administrator and approved by the governor or his designee;

(D) Bids or contracts for contractual services, consulting services, and special projects and services, for the purpose of hiring professionals, consultants or contracted services in an amount exceeding one thousand five hundred dollars (\$1,500.00) by an agency require the approval of the governor or his designee prior to state commitment;

42 U.S.C. Section 1983

Sec. 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State of Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United State or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, and Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.