

Wyoming Law Review

Volume 10
Number 2 *Small Towns, Big Values:
Professional Responsibility for Practitioners in
Wyoming*

Article 9

January 2010

Legislative Histories and the Practice of Statutory Interpretation in Wyoming

Debora A. Person

Follow this and additional works at: <https://scholarship.law.uwyo.edu/wlr>

Recommended Citation

Person, Debora A. (2010) "Legislative Histories and the Practice of Statutory Interpretation in Wyoming," *Wyoming Law Review*. Vol. 10: No. 2, Article 9.
Available at: <https://scholarship.law.uwyo.edu/wlr/vol10/iss2/9>

This Article is brought to you for free and open access by the UW College of Law Reviews at Law Archive of Wyoming Scholarship. It has been accepted for inclusion in Wyoming Law Review by an authorized editor of Law Archive of Wyoming Scholarship.

WYOMING LAW REVIEW

VOLUME 10

2010

NUMBER 2

LEGISLATIVE HISTORIES AND THE PRACTICE OF STATUTORY INTERPRETATION IN WYOMING

*Debora A. Person**

Constitutionally the power to make laws is vested in the legislature, performed through the process of legislation, resulting in statutes that govern the jurisdiction. Because of the broad scope of statutes, courts are called upon to interpret them in the individual cases that come before them. Among the tools to do this are the documents produced during legislation, making up the legislative history of the enacted laws. Bill drafting and the legislative process, therefore, have significance beyond the final text of the statute. This is a simplistic statement of an accepted principle of the interrelated functions of our branches of government. But how are Wyoming courts interpreting statutes? What specific resources do they use for legislative review and what do they reject? And is the Wyoming legislature constructing statutes according to known standardized rules, thereby justifying a search of historical documents to weigh the meaning of the enacted laws?

To begin to answer these questions, a review of the documents produced during the process, and how to locate those that are available, is important. Wyoming's legislature is made up of elected citizens who meet for a constitutionally-defined period of time to perform their legislative duties. The members of the Wyoming legislature are provided neither offices nor individual staff, and formal training in statutory construction is generally not available to the elected assembly. Drafting of statutes and support of the legislature is carried out by the Wyoming Legislative Service Office (LSO).

* Associate Law Librarian, George William Hopper Law Library, University of Wyoming College of Law. Mrs. Person received her B.A., summa cum laude, from Arizona State University in 1981, and her M.L.I.S. from Rutgers, The State University of New Jersey in 1991. A member of the law library faculty since 1999, she is the Head of Reference, Public Services, and Technical Services. She is an active member of American Association of Law Libraries and recently served as President of WestPac, the regional chapter of A.A.L.L.

I. WYOMING LEGISLATIVE PROCESS

The Wyoming legislature is bicameral, meeting the second Tuesday of January each year for no more than forty days.¹ Odd years are general sessions and even years are budget sessions. There are twelve “permanent” or “standing” committees in both the House and the Senate, which parallel each other. When the legislature is not in session, these committees combine to function as joint interim committees, addressing major issues facing the state.

Bill Drafting Files

Sponsors and committees may request a draft of a bill from the LSO.² Upon initiating the process, a drafting file is opened that may contain the request for the bill, its various drafts, model legislation used by the drafter, and research material.³ Once approved by the sponsor, a bill number is assigned and the bill is prefiled.⁴

Committee Reports and Materials

Often the work of the interim committees results in the introduction of bills. In this case, further records may be available in the drafting file. The LSO has committee records back to 1971, including meeting minutes, materials submitted for and against the proposed legislation, memoranda, correspondence, and staff reports.

¹ The following discussion of the legislative process is based primarily on information from the LSO web site at <http://legisweb.state.wy.us/leginfo/hiswylaw.htm> (last visited May 5, 2010).

² Sponsors can be an informal source of information on bills and their original intent, but the Wyoming Supreme Court found that “[a]ffidavits by legislators or other persons involved in the enactment of a statute are not a proper source of legislative history.” *Indep. Producers Mktg. Corp. v. Cobb*, 721 P.2d 1106, 1108 (Wyo. 1986).

³ The LSO maintains bill drafting files for all bills since 1977. These are available to the public with the approval of the LSO Director. Note, however, that according to the LEGISLATIVE HANDBOOK ch. 4, § 4(a), “the LSO treats bill drafting requests as confidential and the contents of proposed legislation will not be divulged to anyone without the specific consent of the sponsor or until a sponsor approval form for the bill is signed and returned.” LEGISLATIVE SERV. OFFICE, MGMT. COUNCIL, LEGISLATIVE HANDBOOK 4.2 (May 2007), available at <http://legisweb.state.wy.us/leginfo/policies/lhbook/l-hbook07.pdf>.

⁴ The Wyoming Supreme Court Law Library has all prefiled bills. LSO has copies from 1971 to the present, and all versions of bills since 2001 are available on the LSO’s web site at <http://legisweb.state.wy.us>. The original bill and all amendments are retained in a bill jacket by the Secretary of State for five years and then sent to the State Archives. The George William Hopper Law Library at the University of Wyoming College of Law also collects and binds versions of the bills and retains a historic collection. Copies of bills are sent out to every county clerk and county library in the state.

A bill is introduced into the legislature at its first reading and assigned to a standing committee.⁵ The committee may hold public hearings or request further information on the bill. It then reports its recommendation back to the house in which the bill was introduced. Specifics of standing committee action on bills during a legislative session are not publicly available.⁶

Floor Debates

Bills are reported back to the house in which they originated. At this reading members may debate and make amendments. A final vote on the bill is taken following the third reading.⁷

⁵ “First reading takes place when the bill is introduced Second reading takes place after the bill has been favorably acted upon by the Committee of the Whole. Third reading usually takes place on the legislative day following second reading.” LEGISLATIVE SERV. OFFICE, MGMT. COUNCIL, WYOMING MANUAL OF LEGISLATIVE PROCEDURES pt. 1, § 5, at 2 (2008), available at <http://legisweb.state.wy.us/leginfo/policies/manlepro.pdf>. Bills not reported back to the house die in committee. Sometimes these dead bills can be helpful to compare against enrolled acts to determine legislative intent.

⁶ The report of the committee is entered into a computer-generated form. Recommendations are limited to Do Pass, Do Not Pass, Do Pass with Amendments, and Return Without Recommendation. Any amendments are attached. According to House and Senate rules:

[N]o written document in the possession of a standing committee and no minutes or other record purporting to reflect an action or recommendation of a standing committee shall be deemed to be an official record of the Wyoming Legislature [A]ll other documents and records developed by, presented to, or in the possession of, a standing committee during a Legislative session are deemed to be unofficial temporary working papers of the standing committee and shall not be preserved as an official record of the Wyoming Legislature following adjournment of the session.

JOINT RULES OF THE HOUSE AND SENATE § 16, available at <http://legisweb.state.wy.us/99sessin/rules/jrules99.htm#Standing>. Exceptions are listed at § 16-1(a).

Occasionally a bill will be changed considerably:

A Standing Committee may so heavily amend a bill that a “substitute bill” incorporating all the Committee’s proposed amendments is prepared as part of the Standing Committee Report. Beginning in the 1999 Session the substitute bill will continue to carry the original bill number, however, this version of the bill will have the designation “Substitute No. ____” in the upper right-hand corner of the first page.

WYOMING MANUAL OF LEGISLATIVE PROCEDURES, *supra* note 5, pt. 1, § 7, at 2.

⁷ There are no transcripts of floor debates; however, audio tapes are available for the Senate since 1996 and for the House since 1997 and are transferred to the Secretary of State and the State Library for retention as public records. Audio recordings of debates since 2006 are also available under Session Information Archives on the LSO’s web site. Legislative Session, <http://legisweb.state.wy.us/sessions/legsess.htm> (last visited May 23, 2010). Tapes are filed by date. *Id.* To determine which tape is needed, search the *Journal of the House* or *Journal of the Senate* for the date of discussion on a bill. Audio recordings of any sort do not supersede the *Journal* as the official record of legislative action according to the rules of the House and Senate. RULES OF THE SENATE § 19-2(c), available at <http://legisweb.state.wy.us/2009/rules/senate.htm> (last visited May 23, 2010); RULES OF THE HOUSE OF REPRESENTATIVES § 25-4(b), available at <http://legisweb.state.wy.us/2009/rules/house.htm> (last visited May 23, 2010).

To become law both houses of the legislature must pass a bill in identical form. When passed by the first house, any amendments are made by LSO and the bill becomes an engrossed act. The engrossed act is then sent to the second house where it undergoes a similar process. If the bill passes the second house without amendment, it is then sent to the Governor.

If the bill is amended by the second house, it is returned to the first house for approval of the new version. If the first house votes to pass the amended bill, it is enrolled and sent to the Governor. If the first house does not pass the amended bill, it is assigned to a joint conference committee (JCC) to work out the differences.⁸ When both houses approve the version of the bill reported out of the JCC, it is enacted and sent to the Governor.

House and Senate Journals

The official record of legislative action is recorded in the *Journal of the House of Representatives* and *Journal of the Senate*, though these records are not a verbatim record of the proceedings. The journals contain brief descriptions of the legislative actions, bill sponsors' names, names of committees that considered the bill, dates of all actions taken, text of all adopted and failed amendments, all roll-call votes, legislators' statements regarding the intent or explanation of the bill, conference committee actions, and actions of the Governor regarding the bill.⁹ The official journals are retained by the Secretary of State and copies are mailed to libraries in the state. Some of this information, versions of a bill, for instance, can be located on the LSO web site at <http://legisweb.state.wy.us>, under "Session Information."

Enrolled Acts

The enrolled act is presented to the Governor. If the Governor signs the bill, it becomes law. If he vetoes the bill, it returns to the house of origin with his objections. The legislature may override the Governor's veto by a vote of two-thirds of the elected members in each house.¹⁰ Any bill left unsigned by the Governor for

⁸ Conference committee recommendations of joint conference committees (JCC) are published in the Senate and House Journals.

⁹ From 1957 until 1975, the Senate and House Journals were combined to form the *Digest of the House and Senate*, which included budget and special sessions of the legislature. It served as an index to the Journals on file with the Secretary of State, replacing the chronological record of the legislative session with an arrangement by bill number, covering each bill introduced. Bills were arranged in numerical sequence and all actions affecting each were shown in brief, by date. From 1975 to 1993, the Digests of the Senate and House were separated out into two publications. In 1993, they were renamed *Journal of the Senate* and *Journal of the House*, though they maintain the sequential bill number arrangement.

¹⁰ Governors' statements made at the time of signing or vetoing a bill can be useful for legislative research. These statements are kept with the bills and are available from LSO and the Secretary of State's Office. See *supra* note 4.

three days or unsigned at the adjournment of the legislature becomes law without his signature unless the Governor files an objection with the Secretary of State within fifteen days after the legislature adjourns.

Session Laws of Wyoming

At the end of each legislative session, the enacted laws are published in the *Session Laws of Wyoming* in the order in which they are passed, that is, by their chapter number. This publication can be a useful legislative history tool in that the text is still in a marked-up version, with strikethroughs and underlines reflecting changes. There are also noncodified sections that are part of the law but are not included in the annotated statutes such as time limits, appropriations, and directions necessary to carry out the law. The *Session Laws* are the official record of the laws, controlling over the Wyoming statutes in cases of conflict.¹¹ Interestingly, though, the Wyoming Supreme Court found in *State ex rel. City of Cheyenne v. Swan* that the journals may also be relied upon to void a provision if the enrolled act does not accurately reflect that passed by both houses.¹²

*Wyoming Statutes Annotated*¹³

Session laws, with the exception of noncodified portions listed above, are codified into *Wyoming Statutes Annotated*, a topical arrangement of the current laws of the state annotated with interpretive case law and legislative information at the end of each statutory section.¹⁴ The legislative references provide information

¹¹ Legislative History of Wyoming Laws, <http://legisweb.state.wy.us/leginfo/hiswylaw.htm> (last visited May 19, 2010).

¹² The Wyoming Supreme Court stated, “[W]e have the authority, and it is our duty, to examine the journals, to determine whether or not the act in question was passed by a majority of the members elected to each house.” *State ex rel. City of Cheyenne v. Swan*, 51 P. 209, 214 (Wyo. 1897).

¹³ The current *Wyoming Statutes Annotated* were compiled in 1977 though the set is republished biennially with each general legislative session. Earlier compilations of Wyoming statutes include: *Wyoming Statutes Annotated*, 1957; *Wyoming Compiled Statutes*, 1946–47; *Wyoming Revised Statutes*, 1931; *Wyoming Compiled Statutes Annotated*, 1920; *Wyoming Compiled Statutes Annotated*, 1910; *Revised Statutes of Wyoming*, 1899; *Revised Statutes of the State of Wyoming*, 1887; and *Compiled Laws of Wyoming*, 1876.

¹⁴ To do this, session laws may be split up to fit them into the topical schema of the statutes. According to section 8-1-105 of the Wyoming Statutes, “Statute numbers and headnotes are for reference, identification, and to facilitate preparation of copy for printing only, and do not constitute any part of the substantive law of the enactment. The legislative service office may change statute section numbers or headnotes before or after passage of the act as necessary.” WYO. STAT. ANN. § 8-1-105 (2009). Prior to this statute’s enactment in 1971, the organizational aspects of the session laws’ use to determine legislative intent were inconsistent. In *France v. Connor*, 27 P. 569 (Wyo. 1891) the court found that the division was arbitrary and not part of the legislation. In *Hoffmeister v. McIntosh*, 361 P.2d 678 (Wyo. 1961), however, the court decided the nonsubstantive organizational elements were purposeful on the part of the legislature and therefore indicative of its intent.

to trace the statute back through its legislative process for the sake of compiling an adequate legislative history.

Wyoming Constitution

The Wyoming Constitution is also heavily interpreted by the courts. The current Constitution and its interpretive case law are published in the *Wyoming Statutes Annotated*. Amendments to the constitution are proposed by the legislature. If agreed to by two-thirds of all members in each house, the vote is entered into the House and Senate journals and submitted to the Governor for approval. The amendment must be published for twelve weeks in at least one newspaper of general circulation and put on the ballot in the next general election.¹⁵ A proposed amendment is effective on the date it is proclaimed adopted by the Governor.¹⁶

The activities of the Wyoming Constitutional Convention, held in 1889, are documented in the *Journal and Debates of the Constitutional Convention of Wyoming* and serve as a source of legislative history for constitutional issues. The journals of the House and Senate and Wyoming newspaper articles provide information on amendments. The Wyoming Supreme Court has stated that use of the *Journal and Debates* is an acceptable approach to interpreting the constitution: “The record of the debates during the constitutional convention sheds some light on the concerns of the delegates These records ‘may very properly be resorted to as indicating somewhat the intent and object which caused the incorporation of the disputed clauses into the fundamental law.’”¹⁷

Initiatives and Referenda

Initiatives and referenda are constitutional privileges giving legislative power to the people.¹⁸ The general population may enact laws through initiatives and approve or reject acts of the legislature through referenda. These acts and their amendments are generally drafted or reviewed by the LSO. Once approved, they are distributed for signatures. Those garnering enough signatures are placed on the ballot in the next general election. If passed, they are codified in the *Wyoming Statutes Annotated* and the legislative notes indicate their source.¹⁹

¹⁵ WYO. CONST. art. XX, § 1; see also Robert B. Keiter, *An Essay on Wyoming Constitutional Interpretation*, 21 LAND & WATER L. REV. 527 (1986).

¹⁶ WYO. STAT. ANN. § 22-20-108 (2009).

¹⁷ Dir. of Office of State Lands & Invs. v. Merbanco, 70 P.3d 241, 254 (Wyo. 2003).

¹⁸ WYO. CONST. art. III, § 52(a).

¹⁹ For more information on initiatives and referenda in Wyoming, see Debora Person & Tawnya Plumb, *Initiatives and Referenda in Wyoming*, 26 LEGAL REFERENCE SERVICES Q. 321 (2007).

Attorney General Opinions

In some cases the Wyoming Attorney General is called upon to issue an opinion regarding the interpretation of a specific statute. This review often includes legislative histories.²⁰

Other Sources of Wyoming Legislative Histories

Law review articles and bar journals are some of the best sources of Wyoming-specific legislative histories of important or controversial statutes. The *Wyoming Law Review*, formerly *Land & Water Law Review* or *Wyoming Law Journal*, is published by the University of Wyoming College of Law. It is a good source for these articles, as is the *Wyoming Lawyer*, published by the Wyoming State Bar Association.

II. HISTORY OF COURT USAGE OF STATE LEGISLATIVE HISTORIES

Courts will generally look to common practices and protocols known as canons of judicial interpretation when determining the intent of the legislature. Even when the trail of the legislative process is accessible, statutory interpretation remains controversial. It is by no means settled whether courts should, in fact, seek to interpret or infer beyond the wording of the statute, or whether the canons are appropriate tools to do so.²¹ Judge Richard Posner expresses doubts that congressional legislative drafters are aware of the existence of these rules or take pains to follow them if they do. He argues that the canons are not useful and contends that, “[w]e should demand evidence that statutory draftsmen follow the code before we erect a method of interpreting statutes on the improbable assumption that they do.”²²

In spite of no clear drafting standards, the Wyoming Supreme Court regularly pursues intent throughout the legislative process. Over twenty percent of all decisions from the court since 2000 deal in some manner with an assessment of the

²⁰ Wyoming Attorney General Opinions are available at the Wyoming State Library and the George William Hopper Law Library at the University of Wyoming College of Law. Opinions issued since 1998 are also available at the Attorney General’s web site, <http://attorneygeneral.state.wy.us/98forma2.htm> (last visited May 5, 2010).

²¹ NORMAN J. SINGER & J.D. SHAMBIE SINGER, SUTHERLAND STATUTES AND STATUTORY CONSTRUCTION § 48A:8 (7th ed. 2007). Singer provides a two-sided argument to identify the pros and cons of the general principles of statutory construction.

²² Richard Posner, *Statutory Interpretation—In the Classroom and in the Courtroom*, 50 U. CHI. L. REV. 800, 806 (1983).

intent of the legislature.²³ Mainly the court relies on primary textual interpretation of the statutes and the constitution. To do so, it has employed a number of standard principles for its evaluation: grammar and syntax,²⁴ ordinary meaning rules,²⁵ *ejusdem generis*,²⁶ and *noscitur a sociis*²⁷ are documented throughout the state's judicial decisions. There is also abundant case law supporting the court's reliance on the plain and ordinary meaning of the words without resorting to the rules of statutory construction where the statute is sufficiently clear and unambiguous. It is a closely held tenet that courts should avoid constructive interpretation where possible: "If the language employed is plain and unambiguous, there is no room left for construction. . . . Courts are not at liberty to depart from that meaning which is plainly declared."²⁸ "A statute is unambiguous if its wording is such that reasonable persons are able to agree as to its meaning with consistency and predictability. A statute is ambiguous only if it is found to be vague or uncertain and subject to varying interpretations."²⁹ The court has also said,

[W]hen the language is not clear or is ambiguous, the court must look to the mischief the statute was intended to cure, the historical setting surrounding its enactment, the public policy of the state, the conclusions of law, and other prior and contemporaneous facts and circumstances, making use of the accepted rules of construction to ascertain a legislative intent that is reasonable and consistent.³⁰

²³ An informal review of decisions of the Wyoming Supreme Court over the last fifty years reflects percentages varying from 15% to 30%. By decades the numbers even out somewhat: 1960 to 1970, 17%; 1970 to 1980, 15%; 1980 to 1990, 20%; 1990 to 2000, 19%; and 2000 to 2009, 22%.

²⁴ "This Court naturally does not review congressional enactments as a panel of grammarians; but neither do we regard ordinary principles of English prose as irrelevant to a construction of those enactments." *Dike v. State*, 990 P.2d 1012, 1018 (Wyo. 1999).

²⁵ At this time there are nearly 300 cases addressing ordinary meaning. Though the language varies, it is clear what the Wyoming Supreme Court intends. "When a term is not defined in a statute, this court will furnish an ordinary and obvious meaning." *Harbel v. Wintermute*, 883 P.2d 359, 365 (Wyo. 1994). "When a word has a well-settled meaning in law at the time of its usage, its use by the legislature will be so understood unless a different meaning is unmistakably intended." *Sorenson v. State*, 604 P.2d 1031, 1038 (Wyo. 1979).

²⁶ This principle requires that "general words, [associated with] an enumeration of words with specific meanings, should be construed to apply to the same general kind or class as those specifically listed." *Sanderson v. State*, 165 P.3d 83, 95 (Wyo. 2007).

²⁷ "The traditional doctrine of *noscitur a sociis*, that 'the meaning of doubtful words may be determined by reference to associated words and phrases,' guides us in our inquiry." *King v. Wyo. Div. of Criminal Investigation*, 89 P.3d 341, 348 (Wyo. 2004).

²⁸ *Parker Land & Cattle Co. v. Wyo. Game & Fish Comm'n*, 845 P.2d 1040, 1043 (Wyo. 1993) (quoting *Rasmussen v. Baker*, 50 P. 819, 821 (Wyo. 1897)).

²⁹ *In re M.M.*, 202 P.3d 409, 413 (Wyo. 2009).

³⁰ *City of Torrington v. Cottier*, 145 P.3d 1274, 1277 (Wyo. 2006).

The Wyoming Supreme Court uses the structure of statutory text to give context to the legislature's intent. Statutes are construed as a whole with the ordinary and obvious meaning applied to the words as they are arranged in paragraphs, sentences, clauses, and phrases.³¹ Time frame is a factor in the consideration of statutory interpretation as well: "The words of a statute must be taken in the sense in which they were understood at the time when the statute was enacted."³²

In *Parker Land & Cattle Co. v. Wyoming Game & Fish Commission*, the Wyoming Supreme Court succinctly laid out the history of statutory interpretation in our state.

Throughout this court's one hundred year history . . . the court has faithfully adhered to certain immutable principles which frame that method. . . . "[T]he initial step in arriving at a correct interpretation is an inquiry respecting the ordinary and obvious meaning of the words employed according to their arrangement and connection." A statute "must be construed as a whole in order to ascertain its intent and general purpose and also the meaning of each part." . . . Thus, our court has always understood and appreciated that statutory interpretation is a judicial process that emphasizes the functional relation between the parts and the whole. . . .

. . . .

. . . "It is always an unsafe way of construing a statute . . . to divide it, by a process of etymological dissection, into separate words, and then apply to each, thus separated from its context, some particular definition."³³

The Wyoming Supreme Court adopted principles found in other jurisdictions specific to criminal law. In *Capwell v. State*, for instance, the court found that in a criminal statute, an ambiguity should be resolved in favor of lenity: "[T]he principle is . . . an outgrowth of our reluctance to increase or multiply punishments absent a clear and definite legislative directive."³⁴

³¹ *Hayes v. City of Sheridan*, 105 P.3d 459, 469 (Wyo. 2005).

³² *Fraternal Order of Eagles Sheridan Aerie No. 186, Inc. v. State ex rel. Forwood*, 126 P.3d 847, 866 (Wyo. 2006).

³³ *Parker Land & Cattle Co.*, 845 P.2d at 1042 (quoting *Rasmussen v. Baker*, 50 P. 819, 821 (Wyo. 1897) and *Ross v. Trustees of the Univ. of Wyo.*, 228 P. 642, 651 (Wyo. 1924)) (other citations omitted).

³⁴ *Capwell v. State*, 686 P.2d 1148, 1153 (Wyo. 1984) (quoting *Simpson v. United States*, 435 U.S. 6 (1978)).

Wyoming's lack of published legislative material has been a hindrance to researching legislative histories and searching out legislative intent. The frustration of the court is plainly expressed. Legislative history "is nearly totally unavailable for understanding the actions of the Wyoming State Legislature. '[B]ecause of the sparse legislative history kept in this state, peering into the past, even the very recent past, becomes as difficult as predicting the future.'"³⁵

A search of Wyoming statutes to refute or verify Judge Posner's contention that legislatures may neither know nor care about the court's principles of interpretation is inconclusive. Clearly, though, the Wyoming statute on statutory construction is brief and offers neither extensive direction in drafting unambiguous statutes nor statutory interpretation.³⁶ Further, the LSO does not, in practice, consistently utilize a professionally-accepted, prescribed set of standards when drafting legislation. In the tradition of a small state, the process is informal, relying on the extensive experience of the staff to prepare draft legislation, though certainly resources such as Sutherland's *Statutes and Statutory Construction, Uniform Laws Annotated*, and other states' statutes may be used as regular reference materials. Additionally it appears that amendments made on the floor of the House and Senate are not informed by these standards.

There are occasions where the legislature has expressly stated how a statute is meant to be interpreted, though. The Wyoming Uniform Securities Act (like many other state-adopted uniform laws), states that it is to be "construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation and administration of this act with the related federal regulation."³⁷ Deference to federal statutes and regulations and to state regulations is not uncommon. The Wyoming Supreme Court has on a number of occasions deferred to agency interpretations, unless such interpretations are clearly erroneous.³⁸

³⁵ *Parker Land & Cattle Co.*, 845 P.2d at 1044 (citations omitted) (quoting *State v. Stovall*, 648, P.2d 543, 546 (Wyo. 1982)).

³⁶ WYO. STAT. ANN. § 8-1-103 (2009). The statute requires that "words and phrases shall be taken in their ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import." *Id.* The statute also briefly references verb tense, plurals, and genders. *Id.*

³⁷ WYO. STAT. ANN. § 17-4-127 (2009).

³⁸ *Parker Land & Cattle Co.*, 845 P.2d at 1045 (referencing *State ex rel. Wyo. Worker's Comp. Div. v. Mahoney*, 798 P.2d 836, 838 (Wyo. 1990) ("some weight"); *Wyo. Mining Ass'n v. State*, 748 P.2d 718, 722 (Wyo. 1988) ("great deference"); *Stratman v. Admiral Beverage Corp.*, 760 P.2d 974, 986 (Wyo. 1988) ("some deference")).

Some statutes, notably the Code of Civil Procedure, explicitly call for liberal interpretation.³⁹ The Wyoming Supreme Court has qualified this by stating that

[a] liberal interpretation does not permit, or require, us to force words out of their natural meaning; it means only that “words should not be forced out of their natural meaning and should receive a fair and reasonable construction so as to obtain the objects for which a statute is designed.”⁴⁰

Conversely some statutes specifically state that they are to be strictly construed: “It is generally held that statutes authorizing suit against the state are to be strictly construed, since they are in derogation of the state’s sovereignty. . . . Thus, we require in this particular area of the law that evidence of legislative intent be both unequivocal and textual.”⁴¹

Neither statutory construction nor legislative history alone lead to the interpretation of a statute by the courts. In instances where a statute may have more than one interpretation, the Wyoming Supreme Court applies the statute within the confines of the constitution: “[I]t is the duty of the court to so interpret the legislative intent as to harmonize the provisions of the act with the constitution, if this can be done reasonably.”⁴²

Constitutional interpretation by the courts follows guidelines similar to statutory review. “[I]n construing the state constitution, this Court follows the same rules that govern construction of a statute . . . that our fundamental purpose is to ascertain the intent of the framers. We first look to the plain

³⁹ WYO. STAT. ANN. § 1-1-101 (2009). “The Code of Civil Procedure and all proceedings under it shall be liberally construed to promote its object and assist the parties in obtaining justice.” *Id.* Other acts that the court has in the past chosen to construe liberally are the Wyoming Public Records Act (WPRO) and Wyoming Worker’s Compensation Act. Regarding public records, the court stated “disclosure, not secrecy, should prevail. Implementation of that goal is provided by affording a liberal interpretation to the WPRO and construing its exceptions narrowly.” *Allsop v. Cheyenne Newspapers, Inc.*, 39 P.3d 1092, 1095 (Wyo. 2002). In interpreting the Wyoming Worker’s Compensation Act, the court requires “reasonably liberal interpretation of the Wyoming Worker’s Compensation Act in order to accomplish the legislative goals, among which is the intent of the legislature that industry, and not the injured employee, should bear the burden of accident and injury occurring within the industrial setting.” *State ex rel. Wyo. Worker’s Comp. Div. v. Girardot*, 807 P.2d 926, 931 (Wyo. 1991).

⁴⁰ *Soles v. State*, 809 P.2d 772, 774 (Wyo. 1991) (quoting *Thomson v. Wyo. In-Stream Flow Comm’n*, 651 P.2d 778, 789 (Wyo. 1982)).

⁴¹ *Parker Land & Cattle Co.*, 845 P.2d at 1044 (citing *Harrison v. Wyo. Liquor Comm’n*, 177 P.2d 397, 399 (Wyo. 1947)).

⁴² *Brown v. Clark*, 34 P.2d 17, 22 (Wyo. 1934).

and unambiguous language to determine intent.”⁴³ “Every statement in the constitution must be interpreted in light of the entire document, with all portions thereof read [*in pari materia*].”⁴⁴ And “[a]lthough the legislature’s interpretation of the constitution is not binding on this Court, we would be loath to interpret the constitution otherwise.”⁴⁵

While courts may look to sources within their states for interpretation, there are also outside factors to be considered. For example, the borrowed statute rule allows that when a statute is borrowed:

[I]t is not wrenched bodily out of its own setting, but taken along with it are the court decisions of its own state which interpret and apply it, and the companion statutes which limit and restrict its operation. . . .

Thus, in applying a “borrowed” statute, we must consider not only the . . . statute itself, but also any applicable tolling or other statutes as well as pertinent court cases.⁴⁶

CONCLUSION

The resources created during the Wyoming legislative process and made readily available are limited, though electronic access has improved general distribution for more recent statutes. This paucity of legislative history materials, though a detriment to investigating deeply into the intent of the legislature, has forced the Wyoming courts into a logical assessment of plain meaning and attentiveness to the words and structure of statutes as they are written. In light of the lack of publication of the state’s standards in the drafting process, Judge Posner’s position on methods of statutory interpretation may deserve further review.

⁴³ Cathcart v. Meyer, 88 P.3d 1050, 1065 (Wyo. 2004) (citations omitted); *accord* Dir. of Office of State Lands & Invs. v. Merbanco, Inc., 70 P.3d 241, 252 (Wyo. 2003).

⁴⁴ Geringer v. Bebout, 10 P.3d 514, 520–21 (Wyo. 2000).

⁴⁵ *Id.* at 522.

⁴⁶ Duke v. Housen, 589 P.2d 334, 345 (Wyo. 1979) (quoting Devine v. Rook, 314 S.W.2d 932, 935 (Mo. App. 1958)).

APPENDIX

Bibliography of Legislative Bibliographic Resources

LYNN HELLEBUST, STATE LEGISLATIVE SOURCEBOOK: A RESOURCE GUIDE TO LEGISLATIVE INFORMATION IN THE FIFTY STATES (Gov't Research Serv. 2008).

FRANK HOUDEK & AM. ASS'N OF LAW LIBRARIES, STATE PRACTICE MATERIALS: ANNOTATED BIBLIOGRAPHIES (Frank G. Houdek ed., William S. Hein & Co., Inc. 2002).

WILLIAM H. MANZ, GUIDE TO STATE LEGISLATIVE AND ADMINISTRATIVE MATERIALS (William S. Hein & Co., Inc. 2002).

Jennifer Bryan Morgan, Indiana University School of Law Library, Bloomington, State Legislative History Research Guides on the Web, <http://www.law.indiana.edu/lawlibrary/research/guides/statelegislative/index.shtml>.

DEBORA PERSON & AM. ASS'N OF LAW LIBRARIES, GOV'T DOCUMENTS SPECIAL INTEREST SECTION, WYOMING STATE DOCUMENTS: A BIBLIOGRAPHY OF STATE PUBLICATIONS AND RELATED MATERIALS (Am. Ass'n of Law Libraries 2006).

Legislative Service Office, Wyoming State Legislature, <http://legisweb.state.wy.us>.

George William Hopper Law Library, University of Wyoming, Compiling Wyoming Legislative Histories, http://uwadmnweb.uwo.edu/LawLib/guides/wyo_legis_hist.asp.