

SECOND ALERT – [HB0079, Recall of elected officials-commission run municipalities, overwhelmingly passed Introduction](#) last Wednesday (Feb 10, 2016) with **44 Aye/Yes** votes, **8 Nay/No** votes, and 8 Excused.

Wyoming Citizens need to understand how crucial it is to kill this bill and act on it THIS WEEKEND!

As usual, there is a lot of in-depth info behind the bill and it is challenging to encapsulate it in a short summary. This is our best attempt to do just that – by giving you the short story as well as the longer story for those who prefer to know the necessary details. Whether you choose to read the short story, the long story, or both – please be sure to read page 4 on how to proactively move forward to KILL HB0079.

AT A GLANCE - NEED TO KNOW INFO ABOUT HB0079

- The bill wants to **eliminate the ONLY recall law** that exists in the state of Wyoming. That law is §15-4-110.
- The recall law likely **EFFECTS OVER 79,000 WYOMING CITIZENS** who reside in Wyoming Charter Cities and Towns – namely **Gillette, Green River, Jackson, Cody, Douglas, Powell and Afton**
- Eliminating the recall law **indirectly effects ALL Wyoming Citizens**
- HB0079 **likely violates Article 3, Section 27 of our WY State Constitution** (Special and local laws prohibited)
- Unless the bill sponsors have the conviction and courage to pull this bill, it isn't likely to be killed in committee because 3 of the sponsors serve on the (Corporations) committee who will vote on it
- **If HB0079 passes to the Senate, recall in WY will likely end for an unknown and extended amount of time**

The Short Story



What we have heard: The bill's primary sponsor, Tyler Lindholm (R) (House District 1, Crook/Weston County) originally wanted to offer a resolution for a WY State Constitutional Amendment to create recall capability for citizens for every level of government. "Attorneys" told Lindholm that in order to do so 'we have to start with a clean slate' - by getting rid of the only recall law that exists! Lindholm was also told (by said attorneys) that 'the recall law affects no one because it is only for commission-run municipalities', and there are none in the state of Wyoming'.

The fact is that **the recall law likely currently applies to over 79,000 WY citizens** who reside in already established "Charter Cities". A charter city is a city or town in which the governing system is defined by the city's own **charter document rather than by state laws**. Per WY "home rule law", charter cities are permitted to opt-out of certain state statutes, but they must be enumerated in their charter document. In other words, unless a WY charter city has specifically opted-out of the recall statute (15-4-110), then the law currently applies and can be used in a local recourse effort by citizens (Gillette, Green River, Jackson, Cody, Douglas, Powell and Afton) to recall a local elected official. We have done our best, though admittedly in a time-crunch, to search through charter documents of the above mentioned charter cities and towns and have not found one that has opted-out of the recall statute (15-4-110).

While one can correctly say "there are no commission-run municipalities in Wyoming", one CANNOT accurately state "repealing this law will affect no one".

We do NOT believe that Representative Lindholm has any bad intentions or ulterior motives, but we do believe that he has been misguided by "attorneys" to sponsor a bill that is, essentially, a gift to establishment Rino's and an absolute nightmare to citizen's who hope to have the ability to recall local officials who ever need to be thrown out of office. Basically, Rep Lindholm might very well achieve the exact opposite of what he set out to do. While we don't know the story on the other bill sponsors, we do strongly believe that Representative Lindholm needs to be encouraged to courageously stand for the principles of liberty by pulling this bill now that the unintended consequences are being identified. Just think how loud the applause would be if a legislator had the seldom-seen courage to admit they were wrong - and pull their own bill from the table. The truth is that this recall law (15-4-110) needs to be expanded not eliminated! If Representative Lindholm comes forth later with a bill that does just that, citizen support would likely be historical.

The Long Story

There are three primary components to the issue:

- 1) WY state statutes that created “Alternative Forms of Government” (around 1965). These are found in Title 15 (Cities and Towns), Chapter 4 - which provides two alternative forms of Government. These are: Commission (Article 1), and City Manager (Article 2). Buried in Article 1 is the only WY recall law in existence: **§15-4-110**.
- 2) The **1972 Home Rule Amendment to WY State Constitution** that is applied to WY charter cities/towns.
- 3) Representative Lindholm’s **2016 House Bill #HB0079**.

It is highly likely that many Wyoming citizens have assumed that the recall option of removing local elected officials has applied to them simply because they have mistakenly understood that a ‘commission form of government’ simply refers to their county commission. However, within the context of Title 15, Chapter 4 mentioned above, it is clear that §15-4-110 is not a “general law” but instead classified as a “special law” written for the alternative “Commission” form of municipal government. With this knowledge one might assume that a “Commission” form of government is the only type that can utilize the recall law. That assumption however, would also be incorrect because of how the 1972 Home Rule Amendment to our Wyoming State Constitution was designed to work for Charter Cities.

Out of the current ninety-nine Wyoming State municipalities, seven are home rule charter cities or towns; Gillette, Green River, Jackson, Cody, Douglas, Powell and Afton. For those charters our state constitution provides: “Each city and town shall be governed by all other statutes, **except as it may exempt itself by charter ordinance** as hereinafter provided.” ([Wyoming Constitution](#), Art. 13 §1 (b), (emphasis added).

Article 13 §1 (c) of the Wyoming Constitution states that, “Each city or town may elect that the whole or any part of **any statute, other than statutes uniformly applicable to all cities and towns** and statutes prescribing limits of indebtedness, **may not apply to such city or town**”. (Emphasis added).

Thus, as the statutes for the ‘Commission’ form of alternative government (15-4-101 to 15-4-110) are NOT uniformly applicable, they are effectively incorporated in the town’s charter unless specifically exempted. In the seven charters examined, §15-4-110 has not been found to be specifically exempted - and is therefore implicitly included in their ordinances.

Thus, HB0079 more than likely negatively effects the populations in the table below.

WY Charter City or Town	County	Population	House Representatives for that County	Link to Municipal Code
Gillette	Campbell	31,971	Eric Barlow, Scott Clem, Roy Edwards, Norine Kasperik, Bill Pownall	Gillette Current City Code
Green River	Sweetwater	12,630	Mark Baker, Stan Blake, JoAnn Dayton, John Freeman	Green River Code of Ordinances
Jackson	Teton	10,449	Ruth Petroff, Andy Schwartz	Jackson Municipal Code
Cody	Park	9,740	Sam Krone, Dan Laursen, David Northrup	Cody Municipal Code
Douglas	Converse	6,423	Eric Barlow, Richard Cannady, Dan Kirkbride	Douglas Code of Ordinances
Powell	Park	6,407	Sam Krone, Dan Laursen, David Northrup	Powell City Code
Afton	Lincoln	1,968	Fred Baldwin, Marti Halverson, Robert McKim	Charter not available at town website
		79,588	≈ 13.6% of total WY Population (584,153 per 2014 U.S. Census)	

Furthermore, **HB0079 most likely violates Article 3, Section 27 of our WY State Constitution** (Special and local laws prohibited). This section states that “**the legislature shall not pass local or special laws... changing or amending the charters of any cities, towns or villages**” (number 7 of the 37 enumerated instances in Section 27). In other words, if

§15-4-110 is eliminated, it will change the charter of the above mentioned cities and towns *by default*, without actually amending it.

According to the Wyoming Association of Municipalities (WAM):

...The concept of home rule can be traced to the Tenth Amendment of the U.S. Constitution, providing that states and the American people themselves retain all powers not granted to the federal government. Black's Law Dictionary defines home rule as a "state or constitutional provision or type of legislative action which results in apportioning power between state and local governments by providing local cities and towns with a measure of self-government if such local government accepts terms of the state legislation." (Black's 1990, 733)

...Simply put, home rule is the delegation of power from the state to its sub-units of government (including counties, municipalities, towns, etc.).

.... The purpose of home rule is to give municipalities the widest possible latitude in the handling of their local affairs. To this end, the Wyoming Constitution, Article 13, Section 1, as amended, empowers all cities and towns to provide for their own government and local affairs by ordinance.

[\(Home Rule in Wyoming: A Handbook for Municipal Elected Officials, WAM, 2010\).](#)

According to [Ballotpedia](#) there are advantages and disadvantages to home rule charters:

Four main advantages of home rule charters commonly cited are:

- the reduction of legislative interference in city affairs
- it permits citizens to determine the form and administrative organization of their local government
- the state legislature is relieved of the time-consuming burden of special legislation, and can devote its exclusive attention to state problems
- it permits citizens to have a greater voice in the determination of local government policies and thus encourages many more citizens to become interested in and participate in local affairs.^[8]

Four main disadvantages of home rule charters commonly cited are:

- frequent changes in the charter may cause instability in local government
- home rule allows local political and interest groups increased freedom from state supervision and interference
- the system makes the solution of region-wide problems more difficult as a local government could refuse to participate
- due to proposal to amend the charter, ballots may become excessive in length and discourage citizens from casting a vote on each referred issue.^[8]

One can rest assured that as more WY Citizens realize the recall law probably doesn't apply to their own city or town – many will consider initiating a local change; to either a home rule charter, or a commission form of government.

Eliminating §15-4-110, eliminates that choice for ALL Wyoming Citizens.

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Feb 10 Roll Call Vote on Introduction of HB0079 (We need to turn the "Ayes" to "Nays"!)

2/10/2016	H Introduced and Referred to H07 - Corporations 44-8-8-0-0
ROLL CALL	
Ayes: Representative(s) Allen, Baker, Baldwin, Berger, Blackburn, Blake, Brown Speaker, Byrd, Campbell, Cannady, Clem, Dayton, Eklund, Esquibel, Freeman, Halverson, Harvey, Hunt, Kasperik, Kinner, Kirkbride, Kroeker, Krone, Larsen Lloyd, Laursen Dan, Lindholm, Lockhart, Loucks, Miller, Northrup, Paxton, Pelkey, Petroff, Piiparinen, Pownall, Reeder, Schwartz, Sommers, Steinmetz, Throne, Walters, Winters, Zwonitzer, Dn, Zwonitzer, Dv	
Nays: Representative(s) Barlow, Edmonds, Edwards, Jaggi, Jennings, Madden, Mckim, Wilson	
Excused: Representative(s) Burkhart, Connolly, Gay, Greear, Harshman, Moniz, Nicholas, Stubson	
Ayes 44	Nays 8 Excused 8 Absent 0 Conflicts 0

KILL HB0079! A sequential strategy...

1. This Weekend - Convince Sponsors to Pull Their Bill

- Share this email with all WY citizens that you know – correspond directly with those who live in Gillette, Green River, Jackson, Cody, Douglas, Powell and Afton. Help them understand what they are ready to lose and encourage them to contact the bill sponsors, as well as [their own House Representatives](#) to **Get HB0079 Pulled**.
- Email and call the bill sponsors. Explain what you have learned about the unintended consequences of HB0079 and ask them to **Pull HB0079** and bring a better, more thoroughly thought-out bill next session.

House Representative Tyler Lindholm	Home - (307) 468-2121; Cell - (307) 282-0968
House Representative Jim Blackburn	Work - (307) 514-4318; Cell - (307) 275-2647
House Representative Charles Pelkey	Cell - (307) 920-0542
House Representative Dan Zwonitzer	Cell - (307) 214-7826
Senator Ogden Driskill	Cell - (307) 680-5555
Senator Charles Scott	Home - (307) 473-2512

- Share/discuss this document with House Members that represent the Counties where these effected charter cities are located– ask them to speak with the sponsors to **Help Get HB0079 Pulled**.

WY Charter City or Town	County	House Representatives for that County
Gillette	Campbell	Eric Barlow , Scott Clem , Roy Edwards , Norine Kasperik , Bill Pownall
Green River	Sweetwater	Mark Baker , Stan Blake , JoAnn Dayton , John Freeman
Jackson	Teton	Ruth Petroff , Andy Schwartz
Cody	Park	Sam Krone , Dan Laursen , David Northrup
Douglas	Converse	Eric Barlow , Richard Cannady , Dan Kirkbride
Powell	Park	Same as Cody/Park County above
Afton	Lincoln	Fred Baldwin , Marti Halverson , Robert McKim

2. Defeat the bill in committee this Monday, Feb 15th (Link here for [Committee Meeting Notice](#) with location and time)

If we cannot convince the sponsors to pull their bill, we might not be successful killing it in committee because three of the sponsors serve on the Corporations Committee that will be voting on the bill. Nevertheless, try to attend the meeting and speak against the bill or email the committee members no later than Monday morning.

House Corporations Committee:

Dan Zwonitzer , Chairman & Sponsor	Mark Jennings
Jim Blackburn , Sponsor	Dan Kirkbride
James Byrd	Tyler Lindholm , Sponsor
Roy Edwards	Jerry Paxton
Gerald Gay, (Sick-excused)	

3. Defeat the bill in the House during 2nd Reading

Email every single House Member and ask them to **Vote Against HB0079**. Explain why and/or share this pdf with them. Check the [House Floor Calendars](#) for HB0079 to see if/when the bill is scheduled for 2nd reading.

4. Defeat the bill in the House during 3rd Reading

Follow the same instructions as for 2nd Reading.

Check [here](#) or [here](#) regularly to see if the bill has been killed.

Recent Arguments for HB0079

This recall statute must be removed so a fresh slate can be created for a resolution, constitutional amendment with sweeping recall statutes.

→ A bill proposing to remove a law, or a subsection of a law, is seldom if ever introduced without presenting an amending or replacing law or subsection. Such premature removal is neither customary nor required to 'clear the way' for new law.

→ There is no way on God's green earth that 2/3's of the current Senate would ever, ever pass such a resolution.

Since no Wyoming town or city has a Commission form of government, the repeal of this subsection will have no effect, nor result in harm.

→ The Commission form of city/town government is one of few forms statutorily defined for 'out-of-box' use for town/cities seeking to incorporate or reorganize. While the Commission form is not currently in use, *any city or town can adopt this form at any time* as provided by law. Removal of the unique and attractive recall provision in it would substantially affect this form.

→ While no Wyoming town currently functions with a commission form, seven (7) Wyoming towns have adopted charter ordinances. The seven include Gillette, Green River, Jackson, Cody, Douglas, Powell and Afton. These cities/towns are likely operating with the recall provision as part of their governing body of laws and ordinances.

This section (W.S. 15-4-110) is archaic, as no Wyoming cities/towns currently have a Commission form of government.

→ While it is the case that no Wyoming city or town is operating under the Commission form of government, a lack of application doesn't make the law archaic or useless. To carry the "archaic" argument further, Article 1 of W.S. 15-4 has seven (7) active subsections. If one accepts this (110) subsection as archaic on the basis of no current use, the same argument could be applied to all in this section.