
SENATE BILL No. 280

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-3-10; IC 34-14-1-11.

Synopsis: Defense of legislative lawsuits. Provides that, if: (1) the constitutionality or enforcement of a state statute is being challenged; and (2) a member of the general assembly who is the first author of a bill finds that the statute is not being adequately defended; the first author has standing to intervene as a party in the action. Permits the second author to intervene if the first author is no longer a member of the general assembly, and permits the speaker of the house of representatives or the president pro tempore of the senate to appoint a member to substitute for the member who intervened if that person ceases to be a member of the general assembly. Provides that a member with standing to intervene may employ an attorney to represent the member, requires the member to seek an attorney who will represent the member on a pro bono basis, and specifies that if the member is unable to obtain a qualified attorney to represent the member on a pro bono basis, the attorney general shall pay the reasonable costs and fees related to the representation. Requires the attorney general to forward a notice relating to a challenge of the constitutionality of a statute to the legislative council and first author of the bill enacting or amending the statute.

Effective: July 1, 2013.

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January 8, 2013, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 280



A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-3-10 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2013]:
 4 **Chapter 10. Right of a Legislator to Intervene in Certain**
 5 **Actions**
 6 **Sec. 1. This chapter does not apply to litigation covered by**
 7 **IC 2-3-8 or IC 2-3-9.**
 8 **Sec. 2. This chapter applies to any action in which the**
 9 **constitutionality or enforcement of a state statute is being**
 10 **challenged.**
 11 **Sec. 3. (a) In any action involving a challenge to the**
 12 **constitutionality or enforcement of a state statute, a member of the**
 13 **general assembly who is the first author of the bill containing the**
 14 **challenged statute has standing to intervene as a party if, in the**
 15 **opinion of the member, the validity of the statute is not being**
 16 **adequately defended. If the first author is no longer a member of**
 17 **the general assembly, the second author of the bill has standing to**



1 **intervene in the action.**

2 **(b) If, after a member of the general assembly intervenes in the**
 3 **action, the member ceases to be a member of the general assembly,**
 4 **the speaker of the house of representatives (if the bill originated in**
 5 **the house of representatives) or the president pro tempore of the**
 6 **senate (if the bill originated in the senate) may select a member to**
 7 **substitute as a party for the intervening member.**

8 **(c) A member with standing to intervene under this section may**
 9 **intervene at any time.**

10 **Sec. 4. (a) Notwithstanding IC 4-6, a member of the general**
 11 **assembly with standing to intervene under section 3 of this chapter**
 12 **may employ one (1) or more attorneys to defend the validity of the**
 13 **statute.**

14 **(b) A member of the general assembly who employs an attorney**
 15 **under this section shall attempt to employ an attorney who will**
 16 **represent the member on a pro bono basis. However, if the**
 17 **member is unable to employ an attorney with appropriate**
 18 **qualifications on a pro bono basis, the attorney general shall pay**
 19 **reasonable costs and attorney's fees related to the representation.**

20 SECTION 2. IC 34-14-1-11, AS AMENDED BY P.L.40-2010,
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2013]: Sec. 11. **(a)** When declaratory relief is sought, all
 23 persons shall be made parties who have or claim any interest that
 24 would be affected by the declaration, and no declaration shall prejudice
 25 the rights of persons not parties to the proceeding. In any proceeding
 26 in which a statute, ordinance, or franchise is alleged to be
 27 unconstitutional, the court shall certify this fact to the attorney general,
 28 and the attorney general shall be permitted to intervene for presentation
 29 of evidence, if evidence is otherwise admissible in the case, and for
 30 arguments on the question of constitutionality. In any proceeding that
 31 involves the validity of a municipal ordinance or franchise, the
 32 municipality shall be made a party, and shall be entitled to be heard. If
 33 the statute, ordinance, or franchise is alleged to be unconstitutional, the
 34 attorney general of the state shall also be served with a copy of the
 35 proceeding and be entitled to be heard.

36 **(b) If the attorney general receives notice under subsection (a)**
 37 **that a statute, ordinance, or franchise is alleged to be**
 38 **unconstitutional, the attorney general shall provide a copy of the**
 39 **notice to the:**

40 **(1) legislative council; and**

41 **(2) first author of the bill enacting or amending the statute;**
 42 **not later than fourteen (14) days after receipt. The attorney**

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1 **general shall provide the notice in an electronic format.**

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