

ARKANSAS SENATE
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of Senate Bill No. 1164

TO PROVIDE LEGAL STANDING AND NOTIFICATION TO MEMBERS OF THE GENERAL ASSEMBLY
AND THE LEGISLATIVE COUNCIL CONCERNING A CONSTITUTIONAL CHALLENGE TO OR THE
INTERPRETATION OF CERTAIN ARKANSAS LAWS.

Amendment No. 1 to Senate Bill No. 1164

Amend Senate Bill No. 1164 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 10, Chapter 1, is amended to add additional subchapters to read as follows:

Subchapter 1 – General Provisions [Reserved]

Subchapter 2 – Judicial Proceedings Legislative Standing and Intervention Act

10-1-201. Title.

This subchapter shall be known and may be cited as the "Judicial Proceedings Legislative Standing and Intervention Act".

10-1-202. Findings – Declaration of public policy – Legislative intent.

(a) The General Assembly finds that:

(1) The proper interpretation, implementation, and administration of the constitution and laws of the state are matters of great public interest and significant and distinct importance to the General Assembly;

(2) Separate, distinct, and distinguishable from the general public, a member has:

(A) A plain, direct, and adequate interest in maintaining the effectiveness of the votes for an act; and

(B) An informed, direct, personal, and official stake in ensuring the proper interpretation and administration of an act;

(3) As evidenced by legislative proceedings of the Eighty-Ninth General Assembly during the 2013 Regular Session, members of the General Assembly and the Attorney General sometimes disagree about the constitutionality of a proposed act;

(4) Especially when the Attorney General has publicly questioned



the constitutionality of a proposed act, the state is best served by permitting a member to present arguments to defend or assert the constitutionality of the act;

(5) The perspective provided by a member would be beneficial to the court in determining the constitutionality of an act;

(6) No harm will result by permitting a member the right to facilitate the proper disposition of cases involving the constitutionality of an act; and

(7) If a circumstance described in § 10-1-204 exists, the state's interests can be adequately represented only by authorizing a member in his or her official capacity to intervene as a matter of right, defend, or prosecute a judicial proceeding concerning the constitutionality of an act.

(b) For the reasons stated in subsection (a) of this section and to promote the proper interpretation, implementation, and administration of state law and to ensure adequate representation, the General Assembly declares that it is the public policy of this state and the intent of this subchapter to allow a member legal standing in the member's official capacity as a matter of right to advocate or defend the constitutionality of an act in a judicial proceeding.

10-1-203. Definitions.

As used in this subchapter:

(1) "Act" means all or part of a law enacted by the General Assembly; and

(2) "Member" means a member of the General Assembly who is the:

(A) Speaker of the House of Representatives;

(B) President Pro Tempore of the Senate;

(C) Lead sponsor of an act in the House of

Representatives; or

(D) Lead sponsor of an act in the Senate.

10-1-204. Legislative standing and intervention rights.

(a) At any stage of a judicial proceeding, a member has, as a matter of right, standing in the member's official capacity and the right to intervene in the judicial proceeding to assert, defend, or establish the constitutionality of an act if:

(1) The act became law after the act was vetoed by the Governor;

(2) The constitutionality of the act is formally or informally questioned by the Attorney General; or

(3) The Attorney General for any reason fails or refuses to:

(A) File in a judicial proceeding a responsive pleading to defend the constitutionality of the act;

(B) Enter an appearance or file an appeal in a judicial proceeding concerning the constitutionality of the act;

(C) File a responsive pleading or brief to defend the constitutionality of the act; or

(D) Present appropriate evidence to support or rebut a claim concerning the constitutionality of the act.

(b) The General Assembly may appropriate funds to pay attorney's fees and expenses incurred by a member under this section.

10-1-205. Applicability.

This subchapter does not:

(1) Supersede a law or constitutional provision concerning the authority of the Attorney General to perform the duties of his or her office;
or

(2) Prevent the Attorney General from performing the duties of his or her office.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Rapert

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Secretary