

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/28/13

A Bill

SENATE BILL 1164

By: Senator Rapert

For An Act To Be Entitled

AN ACT 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; AND FOR
OTHER PURPOSES.

Subtitle

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.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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".*



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

3 (a) The General Assembly finds that:

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

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

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

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

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

18 (4) Especially when the Attorney General has publicly questioned
19 the constitutionality of a proposed act, the state is best served by
20 permitting a member to present arguments to defend or assert the
21 constitutionality of the act;

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

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

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

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

1 a judicial proceeding.

2
3 10-1-203. Definitions.

4 As used in this subchapter:

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

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

8 (A) Speaker of the House of Representatives;

9 (B) President Pro Tempore of the Senate;

10 (C) Lead sponsor of an act in the House of
11 Representatives; or

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

13
14 10-1-204. Legislative standing and intervention rights.

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

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

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

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

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

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

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

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

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

33
34 10-1-205. Applicability.

35 This subchapter does not:

36 (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.

/s/Rapert