LEGISLATURE OF THE STATE OF IDAHO Sixty-second Legislature Second Regular Session - 2014

IN THE SENATE

SENATE BILL NO. 1336

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO LEGISLATIVE STANDING; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE,
BY THE ADDITION OF A NEW SECTION 5-343, IDAHO CODE, TO PROVIDE A TITLE,
TO PROVIDE A PURPOSE, TO PROVIDE FOR LEGISLATIVE STANDING TO PARTICIPATE IN LAWSUITS, TO PROVIDE A PROCEDURE, TO PROVIDE FOR INDEMNIFICATION AND TO PROVIDE FOR THE EFFECT OF A VACANCY IN SPECIFIED OFFICES ON
INTERVENTION.

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 3, Title 5, Idaho Code, be, and the same is
 10 hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and des 11 ignated as Section 5-343, Idaho Code, and to read as follows:

- 12 5-343. LEGISLATIVE STANDING. (1) This section shall be known and may13 be cited as the "Idaho Legislature's Right to Intervene Act."
- 14 (2) The purposes of this act are:

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(a) To provide standing by which the legislature may intervene in law-suits challenging a state law or constitutional provision; and

(b) To make it more likely that laws or constitutional provisions,
passed by the people through their representatives or by the people directly, will be adequately defended, particularly, but not only, when
the executive branch declines to defend them.

(3) The legislature is granted standing to participate in lawsuitschallenging Idaho law, in both state and federal courts, as follows:

- (a) The speaker of the house of representatives and the president pro
 tempore of the senate, as duly elected public officials and agents of
 the state, shall jointly have standing to intervene on behalf of the
 legislature as a party in any judicial proceeding challenging an Idaho
 statute or constitutional provision and may be heard to offer support
 for the statute or provision.
- (b) If the attorney general declines to defend the challenged statute
 or provision, does so in a manner deemed inadequate by the legislature,
 or declines to present as affirmative defenses any interest in the law
 that the legislature relied upon when voting to enact it, then the legislature shall further have standing to defend the challenged statute
 or provision alongside the attorney general or in the attorney general's stead.
- (c) Standing under paragraph (a) or (b) of this subsection shall be in voked on behalf of the legislature by agreement of the speaker of the
 house of representatives and the president pro tempore of the senate,
 and the filing of a joint petition for intervention.
- (d) Whether the legislature intervenes only to be heard pursuant to
 paragraph (a) of this subsection, or whether it intervenes with standing to defend the law pursuant to paragraph (b) of this subsection,

the legislature shall at all times act as an agent of the people of the state, and the state shall indemnify the legislature for any costs and expenses associated with intervening to be heard or defending state law.

(e) If, during any legislative intervention under paragraph (a) or (b)
of this subsection, the office of speaker of the house of representatives or president pro tempore of the senate becomes vacant or passes to
another office holder, the intervention shall not fail unless a subsequent speaker of the house of representatives or president pro tempore
of the senate shall affirmatively withdraw from intervention by filing
such withdrawal with the court.