

IN THE SENATE

SENATE BILL NO. 1372

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO LANDS; AMENDING SECTION 58-120, IDAHO CODE, TO PROVIDE FOR CERTAIN LEGAL REPRESENTATION; AMENDING SECTION 67-1406, IDAHO CODE, TO PROVIDE AN EXCEPTION TO CERTAIN LEGAL REPRESENTATION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 58-120, Idaho Code, be, and the same is hereby amended to read as follows:

~~58-120. ATTORNEY GENERAL COUNSEL TO REPRESENT STATE LAND BOARD AND DEPARTMENT OF LANDS. The attorney general shall represent or shall cause the state to be properly represented in all suits, actions, contests or controversies relating to or involving state lands or timber, before the several land offices in this state, before the general land office at Washington, D.C., and before the courts of this state and of the United States, and may employ a competent attorney or attorneys for that purpose, who shall be paid out of the fund provided for the department of lands. (1) Counsel to the state land board and the department of lands shall be provided by an attorney hired by the state land board in consultation with the director of the department of lands. Such counsel shall be independent of the office of the attorney general but may consult with the office of the attorney general as determined by the counsel. Such counsel shall be designated the general counsel for the state land board and the department of lands.~~

~~(2) General counsel may hire additional attorneys or contract with the office of the attorney general as necessary. Nothing in this section shall preclude the state land board from hiring counsel separate from the general counsel.~~

SECTION 2. That Section 67-1406, Idaho Code, be, and the same is hereby amended to read as follows:

67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwithstanding any other provision of law to the contrary, no department, agency, office, officers, board, commission, institution or other state entity shall be represented by or obtain its legal advice from an attorney at law other than the attorney general except as follows:

(1) The legislative and judicial branches of government and the governor may employ attorneys other than those under the supervision of the attorney general, and such attorneys may appear in any court. However, such entities may, upon request, utilize the attorney general's legal services.

(2) Those state entities within the department of self-governing agencies which are enumerated in section 67-2601(2)(a), (b), and (h), Idaho Code, the state land board, the department of lands, and colleges and univer-

1     sities may employ private counsel to advise them and represent them before  
2     courts of the state of Idaho. Such entities may also obtain legal services  
3     from the attorney general on such terms as the parties may agree.

4     (3) Whenever the attorney general determines that it is necessary or  
5     appropriate in the public interest, the attorney general may authorize con-  
6     tracts for legal services pursuant to the provisions of section 67-1409,  
7     Idaho Code.

8     (4) The provisions of section 67-1401, Idaho Code, shall govern the  
9     normal relationship between the attorney general and the state entities in  
10    the executive branch of state government. However, if after consultation  
11    with the attorney general, the governor determines in his sole judgment,  
12    which shall not be subject to judicial review, that counsel assigned to rep-  
13    resent or give legal advice to any state entity, other than the lieutenant  
14    governor, state controller, state treasurer, secretary of state, attorney  
15    general, and the superintendent of public instruction, cannot effectively  
16    advocate or pursue the policies of the governor, the governor shall request  
17    that other counsel be provided by the attorney general, and the attorney gen-  
18    eral shall provide from within the office of the attorney general or obtain  
19    from outside the office of the attorney general, depending upon the request  
20    of the governor, qualified counsel acceptable to the governor to represent  
21    such state entity.

22    (5) Any separate counsel employed pursuant to the foregoing exceptions  
23    shall be compensated with funds appropriated to such state entity, unless  
24    such separate counsel shall have been employed at the request or convenience  
25    of the attorney general or because of a conflict in representation by the at-  
26    torney general.

27    SECTION 3. An emergency existing therefor, which emergency is hereby  
28    declared to exist, this act shall be in full force and effect on and after  
29    July 1, 2022.