

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 148

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE CONSTITUTIONAL DEFENSE COUNCIL; AMENDING CHAPTER 63, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6303, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ASSISTANCE TO INDIVIDUALS LITIGATING AGAINST THE FEDERAL GOVERNMENT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 63, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6303, Idaho Code, and to read as follows:

67-6303. PRIVATE COUNSEL OR ATTORNEY GENERAL. (1) For the purposes of this section:

(a) "Council" means the constitutional defense council created in section 67-6301, Idaho Code.

(b) "Petitioner" means any Idaho citizen who is or was in a legal proceeding brought by the federal government concerning grazing or water rights.

(2) (a) A petitioner may request the state of Idaho to provide assistance with or to participate in a legal proceeding by submitting a written request to the council that shall include:

(i) A detailed explanation as to why state assistance or participation would be appropriate and what the interest of the state would be;

(ii) A synopsis of the nature of the case and the procedural timeline or the court's decision; and

(iii) Such other information as the council may require.

(b) Such assistance or participation may include:

(i) Funding private counsel from the constitutional defense council fund created in section 67-6301, Idaho Code;

(ii) Reimbursing attorney's fees if the petitioner requested a court to award fees but was denied. Reimbursement shall come from the constitutional defense council fund;

(iii) The office of the attorney general providing legal assistance or representation to the petitioner; or

(iv) State intervention.

(3) (a) Within thirty (30) days of receiving a petition, the council shall deliver its decision to the petitioner in writing.

(b) In determining whether to grant, deny, or partially grant or deny a petition, the council shall consider:

(i) The societal importance of the vindicated right;

(ii) The necessity for private enforcement and accompanying burden on the petitioner;

1 (iii) Whether a significant amount of Idaho citizens stand to ben-
2 efit from the court decision;

3 (iv) Whether the public interest would be served by state assis-
4 tance or participation in the case; and

5 (v) Whether state resources, including personnel time and funds,
6 are available.

7 (c) The council may provide assistance with or participate in the le-
8 gal action if the council determines, in its sole discretion, that state
9 assistance or participation would serve the public interest, that the
10 legal action has or will be more than likely to restore, maintain, and
11 advance the state of Idaho's sovereignty and authority over issues that
12 affect the state and the well-being of its citizens, and that state re-
13 sources are available.

14 SECTION 2. An emergency existing therefor, which emergency is hereby
15 declared to exist, this act shall be in full force and effect on and after
16 July 1, 2025.