

IN THE SENATE

SENATE BILL NO. 1336

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LEGISLATIVE STANDING; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 5-343, IDAHO CODE, TO PROVIDE A TITLE,
3 TO PROVIDE A PURPOSE, TO PROVIDE FOR LEGISLATIVE STANDING TO PARTICI-
4 PATE IN LAWSUITS, TO PROVIDE A PROCEDURE, TO PROVIDE FOR INDEMNIFICA-
5 TION AND TO PROVIDE FOR THE EFFECT OF A VACANCY IN SPECIFIED OFFICES ON
6 INTERVENTION.
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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 NEW SECTION, 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 may
13 be cited as the "Idaho Legislature's Right to Intervene Act."

14 (2) The purposes of this act are:

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

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

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

23 (a) The speaker of the house of representatives and the president pro
24 tempore of the senate, as duly elected public officials and agents of
25 the state, shall jointly have standing to intervene on behalf of the
26 legislature as a party in any judicial proceeding challenging an Idaho
27 statute or constitutional provision and may be heard to offer support
28 for the statute or provision.

29 (b) If the attorney general declines to defend the challenged statute
30 or provision, does so in a manner deemed inadequate by the legislature,
31 or declines to present as affirmative defenses any interest in the law
32 that the legislature relied upon when voting to enact it, then the leg-
33 islature shall further have standing to defend the challenged statute
34 or provision alongside the attorney general or in the attorney gen-
35 eral's stead.

36 (c) Standing under paragraph (a) or (b) of this subsection shall be in-
37 voked on behalf of the legislature by agreement of the speaker of the
38 house of representatives and the president pro tempore of the senate,
39 and the filing of a joint petition for intervention.

40 (d) Whether the legislature intervenes only to be heard pursuant to
41 paragraph (a) of this subsection, or whether it intervenes with stand-
42 ing to defend the law pursuant to paragraph (b) of this subsection,

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

5 (e) If, during any legislative intervention under paragraph (a) or (b)
6 of this subsection, the office of speaker of the house of representa-
7 tives or president pro tempore of the senate becomes vacant or passes to
8 another office holder, the intervention shall not fail unless a subse-
9 quent speaker of the house of representatives or president pro tempore
10 of the senate shall affirmatively withdraw from intervention by filing
11 such withdrawal with the court.