

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 743

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO SPECIAL PROCEEDINGS; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 7, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING AN ACTION TO ENFORCE THE LAW; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 7, Idaho Code, and to read as follows:

CHAPTER 17

ACTION TO ENFORCE THE LAW

7-1701. DEFINITIONS. As used in this chapter:

(1) "Public employee" means a person employed by a public entity or public officer.

(2) "Public entity" means:

(a) Any agency, board, bureau, department, division, institution, or office of the state;

(b) Any public school, public charter school, or school district in the state;

(c) Any independent public body corporate and politic in the state;

(d) Any political subdivision of the state; or

(e) Any other public organization created by the Idaho constitution or an Idaho statute.

(3) "Public officer" means a person elected or appointed to an office created by the Idaho constitution or an Idaho statute.

7-1702. ACTION TO ENFORCE THE LAW. (1) The attorney general may file an action to enforce the law against a public officer, public employee, or public entity when the attorney general has reason to believe that such officer, employee, or entity:

(a) Failed to perform a duty assigned to the officer, employee, or entity by law; or

(b) Violated a prohibition imposed on the officer, employee, or entity by law.

(2) The action authorized by this section may be filed only if the law that the attorney general seeks to enforce does not establish a penalty for noncompliance or another enforcement mechanism.

7-1703. ORDER TO COMPLY -- ATTORNEY'S FEES. (1) In an action filed pursuant to this chapter, a court of competent jurisdiction shall issue an order

1 to comply with the law if the attorney general proves by a preponderance of
2 the evidence that a public officer, public employee, or public entity:

3 (a) Failed to perform a duty assigned to the officer, employee, or en-
4 tity by law; or

5 (b) Violated a prohibition imposed on the officer, employee, or entity
6 by law.

7 (2) A person who fails to comply with an order issued pursuant to this
8 section shall be guilty of contempt and subject to punishment as provided by
9 law.

10 (3) The attorney general shall be entitled to reasonable attorney's
11 fees in any successful action filed pursuant to this chapter.

12 7-1704. CIVIL PENALTY FOR FAILURE TO COMPLY WITH THE LAW. (1) In an
13 action filed pursuant to this chapter, a court of competent jurisdiction
14 may hold a public officer or public employee personally liable for a civil
15 penalty of up to fifty thousand dollars (\$50,000) if the officer's or em-
16 ployee's failure to comply with the law was willful.

17 (2) Penalties paid pursuant to this section shall be deposited in the
18 state general fund.

19 7-1705. WITHHOLDING OF REVENUE-SHARING ACCOUNT INSTALLMENTS. After
20 filing an action pursuant to this chapter against a city or county, the at-
21 torney general shall order that any installments scheduled to be paid to
22 the city or county from the revenue-sharing account established in section
23 63-3638(10), Idaho Code, be withheld until the action is resolved in a court
24 of competent jurisdiction. If the court finds that the city or county failed
25 to comply with the law, the withheld moneys shall be distributed to the tax
26 relief fund established in section 57-811, Idaho Code. If the court finds
27 that the city or county complied with the law, the withheld moneys shall be
28 distributed to the city or county.

29 7-1706. RECOVERY OF STATE MONEYS. After filing an action pursuant to
30 this chapter against a public entity that receives a general fund appropri-
31 ation or a distribution from general fund moneys, the attorney general shall
32 order that any such appropriation or distribution be withheld until the ac-
33 tion is resolved in a court of competent jurisdiction. If the court finds
34 that the public entity failed to comply with the law, the withheld moneys
35 shall be retained in the general fund. If the court finds that the public
36 entity complied with the law, the appropriation or distribution of the with-
37 held moneys shall be reinstated.

38 7-1707. ALTERNATE COUNSEL. (1) A public officer, public employee, or
39 public entity that would otherwise be entitled to legal representation by
40 the office of the attorney general may retain other counsel if an action au-
41 thorized by this chapter is filed against such officer, employee, or entity.

42 (2) Any alternate counsel employed by a public entity shall be compen-
43 sated with funds from the entity's appropriation.

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 July 1, 2026.