

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1021

(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 12-1841, Arizona Revised Statutes, is amended to  
3 read:

4 12-1841. Parties; notice of claim of unconstitutionality

5 A. When declaratory relief is sought, all persons shall be made  
6 parties who have or claim any interest ~~which~~ THAT would be affected by the  
7 declaration, and no declaration shall prejudice the rights of persons not  
8 parties to the proceeding. In any proceeding that involves the validity of  
9 a municipal ordinance or franchise, ~~such~~ THE municipality shall be made a  
10 party and shall be entitled to be heard. In any proceeding in which a  
11 state statute, ordinance, franchise or rule is alleged to be  
12 unconstitutional, the attorney general, ~~and~~ the speaker of the house of  
13 representatives and the president of the senate shall be served with a copy  
14 of the pleading, motion or document containing the allegation at the same  
15 time the other parties in the action are served and shall be entitled to be  
16 heard.

17 B. If a pleading, motion or document containing the allegation is  
18 served on the attorney general, ~~and~~ the speaker of the house of  
19 representatives and the president of the senate pursuant to subsection A OF  
20 THIS SECTION, a notice of claim of unconstitutionality shall be attached to  
21 the pleading, motion or document as the cover page and shall state the  
22 following information:

1           1. The name, address and telephone number of the attorney for the  
2 party alleging that a state law is unconstitutional or the name, address  
3 and telephone number of the party if the party is not represented by an  
4 attorney.

5           2. The case name, court name, caption and case number of the  
6 proceeding.

7           3. A brief statement of the basis for the claim of  
8 unconstitutionality.

9           4. A brief description of the proceeding, with copies of any court  
10 orders in the proceeding if the claim of unconstitutionality is asserted in  
11 a pleading, motion or document other than the pleading, motion or document  
12 that initiated the proceeding.

13           5. The date, time, location, judge and subject of the next hearing  
14 in the proceeding, if any.

15           C. IF A COURT ORDER REQUESTS THE PARTIES IN A PROCEEDING TO ADDRESS  
16 THE CONSTITUTIONALITY OF A STATE STATUTE AND NO PARTY HAS ALLEGED IN THE  
17 PROCEEDING THAT THE STATE STATUTE IS UNCONSTITUTIONAL, THE CLERK OF THE  
18 COURT SHALL PROVIDE PROMPT NOTICE OF THE COURT'S ORDER TO THE SPEAKER OF  
19 THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

20           ~~C.~~ D. If the attorney general or the speaker of the house of  
21 representatives and the president of the senate are not served in a timely  
22 manner with notice pursuant to ~~subsection A~~ THIS SECTION, on motion by the  
23 attorney general, the speaker of the house of representatives or the  
24 president of the senate the court shall vacate any finding of  
25 unconstitutionality and shall give the attorney general, the speaker of the  
26 house of representatives or the president of the senate a reasonable  
27 opportunity to prepare and be heard.

28           ~~D.~~ E. This section ~~shall~~ DOES not ~~be construed to~~ compel the  
29 attorney general, the speaker of the house of representatives or the  
30 president of the senate to intervene as a party in any proceeding or to  
31 ~~permit~~ ALLOW them to be named as defendants in a proceeding. The attorney  
32 general, the speaker of the house of representatives or the president of

1 the senate, in the party's discretion, may intervene as a party, may file  
2 briefs in the matter or may choose not to participate in a proceeding that  
3 is subject to the notice requirements of this section."

4 Renumber to conform

5 Page 1, line 30, strike "ALL LAWS" insert "THE CONSTITUTIONALITY OF ANY LAW"

6 Line 31, strike "AGAINST ALL" insert "IN ANY"; strike "CHALLENGES" insert  
7 "PROCEEDING"; after the period insert "AT LEAST TEN DAYS BEFORE FILING ANY  
8 SUBSTANTIVE OR DISPOSITIVE PLEADING REGARDING THE CONSTITUTIONALITY OF THE  
9 CHALLENGED LAW,"

10 Line 32, after "DUTY" insert "IN ANY PROCEEDING"; after "GRANTED" insert "AS  
11 FOLLOWS:

12 (a) WHEN THE LEGISLATURE IS NOT IN SESSION, IF BOTH THE SPEAKER OF  
13 THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE AGREE TO GRANT  
14 RELIEF.

15 (b) WHEN THE LEGISLATURE IS IN SESSION,"

16 Amend title to conform

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8:37 AM  
C: AH