House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 105

HOUSE BILL 2774

AN ACT

AMENDING SECTION 12-1841, ARIZONA REVISED STATUTES; RELATING TO THE UNIFORM DECLARATORY JUDGMENTS ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

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

12-1841. Parties; notice of claim of unconstitutionality

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

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

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

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

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

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

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

C. If the attorney general or the speaker of the house of representatives and the president of the senate are not served in a timely manner with notice pursuant to subsection A, on motion by the attorney general, the speaker of the house of representatives or the president of the senate the court shall vacate any finding of unconstitutionality and shall give the attorney general, the speaker of the house of representatives or the president of the senate a reasonable opportunity to prepare and be heard.

1 D. THIS SECTION SHALL NOT BE CONSTRUED TO COMPEL THE ATTORNEY GENERAL,
2 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE PRESIDENT OF THE SENATE TO
3 INTERVENE AS A PARTY IN ANY PROCEEDING OR TO PERMIT THEM TO BE NAMED AS
4 DEFENDANTS IN A PROCEEDING. THE ATTORNEY GENERAL, THE SPEAKER OF THE HOUSE
5 OF REPRESENTATIVES OR THE PRESIDENT OF THE SENATE, IN THE PARTY'S DISCRETION,
6 MAY INTERVENE AS A PARTY, MAY FILE BRIEFS IN THE MATTER OR MAY CHOOSE NOT TO
7 PARTICIPATE IN A PROCEEDING THAT IS SUBJECT TO THE NOTICE REQUIREMENTS OF
8 THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.

Passed the House March 8, 2010

by the following vote: 57 Ayes,

0 Nays, 2 Not Voting

1 vacancy

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 14, 2010

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

15 day of April, 2010

at 1:55 o'clock P. M.

Nicole Bendle

Secretary to the Governor

Approved this 20th day of

April

at 5:30 o'clock P. M.

Jan K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 21st day of April, 2010

at 10:06 o'clock a M.

Ken Bennett

Secretary of State

H.B. 2774