**A** **BILL**

TO AMEND CHAPTER 1, TITLE 2 OF THE 1976 CODE, RELATING TO THE GENERAL ASSEMBLY, BY ADDING SECTION 2-1-10, TO PROVIDE THAT THE SENATE AND HOUSE OF REPRESENTATIVES EACH HAVE AN UNCONDITIONAL RIGHT TO INTERVENE IN CERTAIN ACTIONS FILED IN STATE COURT, TO PROVIDE THAT THE SENATE AND THE HOUSE OF REPRESENTATIVES MAY INTERVENE IN CERTAIN ACTIONS FILED IN FEDERAL COURT, TO PROVIDE THAT THIS PROVISION DOES NOT DIMINISH THE ATTORNEY GENERAL’S OBLIGATION TO REPRESENT THE STATE AND ITS AGENCIES IF SUED, TO PROVIDE THAT A STATE AGENCY MUST NOTIFY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES WITHIN FIVE DAYS OF CERTAIN LAWSUITS BEING FILED AGAINST THE AGENCY, AND TO PROVIDE THAT THE SENATE AND THE HOUSE OF REPRESENTATIVES SHALL MAINTAIN THEIR OWN RESPECTIVE DEFENSES IN ACTIONS UNLESS AGREED TO OTHERWISE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 2 of the 1976 Code is amended by adding:

“Section 2-1-10. (A) The President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, have an unconditional right to intervene on behalf of their respective bodies in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges the constitutionality of a state statute, the validity of legislation, or any action of the General Assembly.

(B) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the General Assembly, the President of the Senate, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, have standing to intervene as a party on behalf of their respective bodies, to file an amicus brief, or to provide evidence or argument, written or oral, in accordance with the federal rules of procedure, irrespective of whether any other officer of the State has appeared in the action. A federal court presiding over any action in which the State of South Carolina, or any state agency, is a named party is requested to allow the President, on behalf of the Senate, and the Speaker of the House of Representatives, on behalf of the House of Representatives, to participate in any such action as a party.

(C) A request to intervene or the participation of the President of the Senate or the Speaker of the House of Representatives, as a party or otherwise, in any action challenging the constitutionality of a state statute, the validity of legislation, or any action of the General Assembly does not constitute a waiver of:

(1) legislative immunity or legislative privilege for any individual legislator, legislative officer, or legislative staff; or

(2) sovereign immunity or any other rights, privileges, or immunities of the State that arise under the United States Constitution or the South Carolina Constitution.

(D) Intervention by the Senate or the House of Representatives pursuant to this section does not limit the duty of the Attorney General to appear and prosecute legal actions or defend state agencies, officers, or employees as otherwise provided.

(E) Within five days of the receipt of service, a state agency shall notify the President of the Senate and the Speaker of the House of Representatives of a claim that challenges the constitutionality of a state statute, the validity of legislation, or any action of the General Assembly.

(F) In any action in which the Senate or the House of Representatives intervenes or participates pursuant to this section, the Senate and the House of Representatives shall function independently from each other in the representation of their respective clients, unless otherwise agreed to by the President of the Senate and the Speaker of the House of Representatives.”

SECTION 2. This act takes effect upon approval by the Governor.

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