

BILL ANALYSIS

H.B. 2425
By: Thompson
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have observed that, currently, a party challenging the constitutionality of a state statute is not required to notify the attorney general's office of the suit. Interested parties further observe that, consequently, the attorney general is often unaware of a constitutional challenge to state statute until the litigation has substantially progressed or concluded, reducing the ability of the attorney general to intervene and defend the state and increasing the likelihood of appeal. The goal of H.B. 2425 is to improve the attorney general's ability to defend the state and to save the state the cost of an appeal by requiring a party asserting a challenge to the constitutionality of a state statute or a rule adopted by a state agency to give written notice of the challenge to the attorney general.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2425 amends the Government Code to require a party to litigation who files a petition, motion, or other pleading challenging the constitutionality of a statute of Texas, if the attorney general is not a party to or counsel involved in the litigation, to file with the court a notice of constitutional question identifying the statute in question, stating the basis for the challenge, and specifying the petition, motion, or other pleading that raises the challenge and serve the notice and pleading on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of the bill. The bill prohibits a court from entering a final judgment holding a statute of Texas unconstitutional before the 60th day after the date notice is served on the attorney general. The bill specifies that a party's failure to file or serve notice as required by the bill does not deprive the court of jurisdiction or forfeit an otherwise timely filed claim or defense based on the challenge to the constitutionality of a statute of Texas. The bill specifies that the bill's provisions or the state's intervention in litigation in response to notice under the bill does not constitute a waiver of sovereign immunity.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.