

By: Thompson

H.B. No. 2425

A BILL TO BE ENTITLED

AN ACT

relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 402, Government Code, is amended by adding Section 402.010 to read as follows:

Sec. 402.010. LEGAL CHALLENGES TO CONSTITUTIONALITY OF STATE STATUTES. (a) A party to litigation who files a petition, motion, or other pleading challenging the constitutionality of a statute of this state shall, if the attorney general is not a party to or counsel involved in the litigation:

(1) 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

(2) 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 this section.

(b) A court may not enter a final judgment holding a statute of this state unconstitutional before the 60th day after the date notice required by Subsection (a) is served on the attorney general.

(c) A party's failure to file or serve notice as required by

1 Subsection (a) does not deprive the court of jurisdiction or
2 forfeit an otherwise timely filed claim or defense based on the
3 challenge to the constitutionality of a statute of this state.

4 (d) This section or the state's intervention in litigation
5 in response to notice under this section does not constitute a
6 waiver of sovereign immunity.

7 SECTION 2. Section 402.010, Government Code, as added by
8 this Act, applies only to a petition, motion, or other pleading
9 filed in litigation on or after the effective date of this Act. A
10 pleading filed in litigation before the effective date of this Act
11 is governed by the law applicable to the pleading immediately
12 before the effective date of this Act, and that law is continued in
13 effect for that purpose.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2011.