

1-1 By: Thompson (Senate Sponsor - Hegar) H.B. No. 2425
1-2 (In the Senate - Received from the House May 12, 2011;
1-3 May 12, 2011, read first time and referred to Committee on State
1-4 Affairs; May 21, 2011, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to notice to the attorney general of challenges to the
1-9 constitutionality of Texas statutes.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 402, Government Code, is
1-12 amended by adding Section 402.010 to read as follows:

1-13 Sec. 402.010. LEGAL CHALLENGES TO CONSTITUTIONALITY OF
1-14 STATE STATUTES. (a) In an action in which a party to the litigation
1-15 files a petition, motion, or other pleading challenging the
1-16 constitutionality of a statute of this state, the court shall, if
1-17 the attorney general is not a party to or counsel involved in the
1-18 litigation, serve notice of the constitutional question and a copy
1-19 of the petition, motion, or other pleading that raises the
1-20 challenge on the attorney general either by certified or registered
1-21 mail or electronically to an e-mail address designated by the
1-22 attorney general for the purposes of this section. Notice under
1-23 this section must identify the statute in question, state the basis
1-24 for the challenge, and specify the petition, motion, or other
1-25 pleading that raises the challenge.

1-26 (b) A court may not enter a final judgment holding a statute
1-27 of this state unconstitutional before the 45th day after the date
1-28 notice required by Subsection (a) is served on the attorney
1-29 general.

1-30 (c) A court's failure to file or serve notice as required by
1-31 Subsection (a) does not deprive the court of jurisdiction or
1-32 forfeit an otherwise timely filed claim or defense based on the
1-33 challenge to the constitutionality of a statute of this state.

1-34 (d) This section or the state's intervention in litigation
1-35 in response to notice under this section does not constitute a
1-36 waiver of sovereign immunity.

1-37 SECTION 2. Section 402.010, Government Code, as added by
1-38 this Act, applies only to a petition, motion, or other pleading
1-39 filed in litigation on or after the effective date of this Act. A
1-40 pleading filed in litigation before the effective date of this Act
1-41 is governed by the law applicable to the pleading immediately
1-42 before the effective date of this Act, and that law is continued in
1-43 effect for that purpose.

1-44 SECTION 3. This Act takes effect immediately if it receives
1-45 a vote of two-thirds of all the members elected to each house, as
1-46 provided by Section 39, Article III, Texas Constitution. If this
1-47 Act does not receive the vote necessary for immediate effect, this
1-48 Act takes effect September 1, 2011.

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