

By: Leach

H.B. No. 1610

A BILL TO BE ENTITLED

AN ACT

relating to the defense of this state or a state agency in actions challenging the constitutionality of a state statute.

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

SECTION 1. Section 402.010, Government Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) The attorney general may not settle or compromise any claim in an action against this state or a state agency if the settlement or compromise has the effect of holding that a state statute is unconstitutional.

(c-2) If a state agency in the executive or legislative branch of state government is a defendant in an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a state statute and the attorney general elects not to defend the agency, the attorney general shall pay or reimburse the reasonable expenses incurred by the agency in defending the action, including court costs, investigative costs, deposition expenses, witness fees, and attorney's fees. This subsection does not apply to representation of the agency before the supreme court in violation of Section 22, Article IV, Texas Constitution.

SECTION 2. Section 402.010, Government Code, as amended by this Act, applies only to an action filed on or after the effective date of this Act. An action filed before the effective date of this

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1 Act is governed by the law applicable to the action before the
2 effective date of this Act, and that law is continued in effect for
3 that purpose.

4 SECTION 3. This Act takes effect September 1, 2023.