

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE ENROLLED ACT No. 394

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-14-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest that would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. **In any proceeding in which a statute, ordinance, or franchise is alleged to be unconstitutional, the court shall certify this fact to the attorney general, and the attorney general shall be permitted to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for arguments on the question of constitutionality.** In any proceeding that involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

SECTION 2. IC 34-33.1 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

ARTICLE 33.1. AUTHORITY OF THE ATTORNEY GENERAL

Chapter 1. Authority of the Attorney General to Intervene in

SEA 394+

C
O
P
Y



Cases Challenging the Constitutionality of a Statute, Ordinance, or Franchise.

Sec. 1. (a) If the constitutionality of a state statute, ordinance, or franchise affecting the public interest is called into question in an action, suit, or proceeding in any court to which any agency, officer, or employee of the state is not a party, the court shall certify this fact to the attorney general and shall permit the attorney general to intervene on behalf of the state and present:

- (1) evidence that relates to the question of constitutionality, if the evidence is otherwise admissible; and**
- (2) arguments on the question of constitutionality.**

(b) If a party to an action bases its claim or defense on:

- (1) a statute or executive order administered by a state officer or agency; or**
- (2) a rule, order, requirement, or agreement issued or made under the statute or executive order;**

the attorney general shall be permitted to intervene in the action.

Sec. 2. The state, by the attorney general, may file an amicus curiae brief in any matter pending in any state court without the consent of the parties or leave of the court. The attorney general shall file the amicus curiae brief within the time allowed for the party with whom the state is substantively aligned to file the party's brief or petition. However, for good cause shown, a court may permit the attorney general to file a belated amicus curiae brief. If the court permits the filing of a belated amicus curiae brief, the court shall set a deadline for an opposing party to file a reply brief.

**C
O
P
Y**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

C
O
P
Y

SEA 394+

