

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 285

Representative Seitz

**Cosponsors: Representatives Abrams, Bird, Carruthers, Cross, McClain, Riedel,
Stoltzfus, Wiggam**

A BILL

To amend section 109.02 and to enact section 101.55 1
of the Revised Code regarding intervention and 2
legal representation in actions challenging 3
statutes and to require the Attorney General to 4
seek legislative approval before settling 5
certain actions. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 109.02 be amended and section 7
101.55 of the Revised Code be enacted to read as follows: 8

Sec. 101.55. (A) When a party to an action challenges in 9
state or federal court the constitutionality of a statute, 10
facially or as applied, challenges a statute as violating or 11
preempted by federal law, or otherwise challenges the 12
construction or validity of a statute, as part of a claim or 13
affirmative defense, the house of representatives, the senate, 14
and the general assembly may intervene as set forth under 15
division (B) of this section at any time in the action as a 16
matter of right by serving motion upon the parties as provided 17
in the Rules of Civil Procedure. 18

(B) (1) The speaker of the house of representatives may 19
intervene at any time in the action on behalf of the house of 20
representatives. The speaker may obtain legal counsel other than 21
from the attorney general, with the cost of representation paid 22
from funds appropriated for that purpose, to represent the house 23
of representatives in any action in which the speaker 24
intervenes. 25

(2) The president of the senate may intervene at any time 26
in the action on behalf of the senate. The president may obtain 27
legal counsel other than from the attorney general, with the 28
cost of representation paid from funds appropriated for that 29
purpose, to represent the senate in any action in which the 30
president intervenes. 31

(3) The president of the senate and the speaker of the 32
house of representatives, acting jointly, may intervene at any 33
time in the action on behalf of the general assembly. The 34
president and the speaker, acting jointly, may obtain legal 35
counsel other than from the attorney general, with the cost of 36
representation paid from funds appropriated for that purpose, to 37
represent the general assembly in any action in which the 38
president and speaker jointly intervene. 39

(C) No individual member, or group of members, of the 40
senate or house of representatives, except the president and 41
speaker as provided under this section, shall intervene in an 42
action described in division (A) of this section or obtain legal 43
counsel at public expense under this section, in the member's or 44
group's capacity as a member or members of the senate or house 45
of representatives. 46

Sec. 109.02. (A) The attorney general is the chief law 47
officer for the state and all its departments and shall be 48

provided with adequate office space in Columbus. Except as 49
provided in section 101.55, in division (E) of section 120.06, 50
and in sections 3517.152 to 3517.157 of the Revised Code, no 51
state officer or board, or head of a department or institution 52
of the state shall employ, or be represented by, other counsel 53
or attorneys at law. The attorney general shall appear for the 54
state in the trial and argument of all civil and criminal causes 55
in the supreme court in which the state is directly or 56
indirectly interested. When required by the governor or the 57
general assembly, the attorney general shall appear for the 58
state in any court or tribunal in a cause in which the state is 59
a party, or in which the state is directly interested. Upon the 60
written request of the governor, the attorney general shall 61
prosecute any person indicted for a crime. 62

(B) In any action brought against the state for injunctive 63
relief or for which there is a proposed consent decree, the 64
attorney general may not compromise or settle the action without 65
the approval of an intervenor under section 101.55 of the 66
Revised Code or, if there is no intervenor under section 101.55 67
of the Revised Code, without first submitting a proposed plan to 68
the legislature as provided in division (B) of this section. 69

(1) In the case of a proposed plan that concedes the 70
unconstitutionality or other invalidity of a statute, facially 71
or as applied, or concedes that a statute violates or is 72
preempted by federal law, the attorney general shall submit the 73
proposed plan to the standing committee of the house of 74
representatives having responsibility for government oversight 75
and the standing committee of the senate having responsibility 76
for government oversight. The attorney general shall receive the 77
joint approval of the committees, which shall operate in a joint 78
manner for purposes of this section, before proceeding under 79

division (B) (2) of this section. 80

(2) The attorney general shall submit a proposed plan to 81
the standing committee of the house of representatives having 82
responsibility for finance and appropriations and to the 83
standing committee of the senate having responsibility for 84
finance and appropriations. The committees shall act jointly 85
under this section of the Revised Code. If, not later than 86
fourteen business days after the plan is submitted, the 87
chairpersons of the committees jointly notify the attorney 88
general that the committees, acting jointly, have scheduled a 89
joint meeting for the purpose of reviewing the proposed plan, 90
the attorney general may compromise or settle the action only 91
after receiving the joint approval of the committees. 92

Section 2. That existing section 109.02 of the Revised 93
Code is hereby repealed. 94