

**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**

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**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