

Senate Bill 271

By: Senators Kemp of the 3rd, Haines of the 46th and Ray of the 48th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 1 of the Official Code of Georgia Annotated, relating to laws
2 and statutes, so as to provide for notice to the Attorney General of any challenge to the
3 constitutionality of any statute of this state; to provide for legislative findings; to provide for
4 related matters; to provide an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly finds that under present law notice to the Attorney General of
9 challenges to statutes duly enacted by the legislature is required under Code Section 9-4-7
10 when the challenge is made pursuant to an action for declaratory judgment. The General
11 Assembly further finds that it is in the best interest of the state for the Attorney General to
12 be notified and given the opportunity to respond whenever challenges to the constitutionality
13 of statutes enacted by the legislature are made, whether in civil, criminal, or administrative
14 actions or when appealed. While the Attorney General is not and ought not to be obligated
15 to appear on behalf of the state in all proceedings where such constitutional challenges are
16 made, in order to provide for the opportunity for the defense of duly enacted legislation, it
17 is appropriate and necessary that the Attorney General be given notice and the opportunity
18 to be heard in those cases and at the stages of those cases that he or she deems appropriate
19 and in the best interest of the state.

20 **SECTION 2.**

21 Chapter 3 of Title 1 of the Official Code of Georgia Annotated, relating to laws and statutes,
22 is amended by adding a new Code Section 1-3-1.1 to read as follows:

1 "1-3-1.1.

2 If a statute of the state is alleged to be unconstitutional in any proceeding, civil, criminal,
3 or administrative, including appeals, the Attorney General of the state shall be served with
4 a copy of the proceeding and shall be entitled to be heard."

5 **SECTION 3.**

6 This Act shall become effective upon its approval by the Governor or upon its becoming law
7 without such approval.

8 **SECTION 4.**

9 All laws and parts of laws in conflict with this Act are repealed.