



2023 South Dakota Legislature

Senate Bill 116

SENATE ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer behoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: **Senator Schoenbeck**

1 **An Act to authorize legislative intervention into certain cases pertaining to election**
2 **law.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 15-6-24(c) be AMENDED:**

5 **15-6-24(c).** A person desiring to intervene shall serve a motion to intervene upon
6 the parties as provided in § 15-6-5. The motion shall state the grounds therefor and shall
7 be accompanied by a pleading setting forth the claim or defense for which intervention is
8 sought. The same procedure shall be followed when a statute gives a right to intervene.

9 When the constitutionality of an act of the Legislature affecting the public interest
10 is drawn in question in any action to which the state or an officer, agency, or employee of
11 the state is not a party, the party asserting the unconstitutionality of the act shall notify
12 the attorney general thereof within such time as to afford ~~him~~ the attorney general the
13 opportunity to intervene.

14 When the constitutionality of a statute in title 12, or the construction or validity of
15 a statute in title 12 is drawn in question in any action to which the Legislature is not a
16 party, the party asserting the constitutionality or construction of a statute in title 12 shall
17 serve notice upon the director of the Legislative Research Council, who shall notify the
18 Executive Board of the Legislative Research Council thereof within such time as to afford
19 the Executive Board the opportunity to intervene pursuant to section 2 of this Act.

20 **Section 2. That chapter 12-1 be amended with a NEW SECTION:**

21 The Executive Board of the Legislative Research Council has the unconditional right
22 to intervene when the constitutionality of a statute in title 12, or the construction or
23 validity of a statute in title 12, is drawn in question in any action to which the Legislature
24 is not a party. The intervention is in the name of the Executive Board of the Legislative

1 Research Council on behalf of the Legislature. Nothing in this section constitutes an
2 expressed waiver of legislative immunity or legislative privilege of any member, officer,
3 or staff of the Legislature.

4 **Section 3. That chapter 12-1 be amended with a NEW SECTION:**

5 If the Executive Board of the Legislative Research Council on behalf of the
6 Legislature intervenes in an action described in section 2 of this Act and finds that the
7 attorney general cannot adequately represent the interests of the Board, then,
8 notwithstanding § 1-11-5, the Board may obtain legal counsel other than the attorney
9 general, with the cost of representation paid from funds appropriated for this purpose, to
10 represent the Board.