

SENATE FILE NO. SF0108

Lawsuits challenging state legislative acts.

Sponsored by: Management Council

A BILL

for

1 AN ACT relating to civil procedure; specifying the properly  
 2 named party for actions challenging legislative acts;  
 3 providing for removal of incorrect names; authorizing  
 4 acceptance of service; providing legislative findings;  
 5 specifying applicability; and providing for an effective  
 6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 1-35-109 is created to read:

11

12 **1-35-109. Legislature and legislators as party to**  
 13 **actions; properly naming party; acceptance of service.**

14

15 (a) The legislature hereby authorizes the attorney  
 16 general to accept service of any action in which the

1 legislature, either house of the legislature, a committee  
2 of the legislature or an individual legislator acting in  
3 his official capacity is named as a party.

4

5 (b) In any action challenging any official act of the  
6 legislature as a whole and naming the legislature or any  
7 member thereof as a party, the proper party shall be "The  
8 Legislature of the State of Wyoming." In any such action  
9 challenging an official act of either body of the  
10 legislature or a committee of the legislature the proper  
11 party shall be the appropriate body or committee of "the  
12 Legislature of the State of Wyoming".

13

14 (c) In any action challenging any official act of a  
15 member of the state legislature, the legislator shall be  
16 designated only by the legislative office held unless the  
17 action seeks:

18

19 (i) To recover a money judgment enforceable  
20 against the legislator's personal assets; or

21

22 (ii) Other relief from actions of the legislator  
23 other than actions taken in his official capacity.

1

2 (d) Any individual named in an action in which the  
3 proper party is the legislature or a body of the  
4 legislature or who has otherwise been improperly named has  
5 the substantive right to petition the court to have his  
6 name removed from the action. The court shall order the  
7 name be removed from the action within thirty (30) days  
8 unless a party opposing the petition shows the individual's  
9 name should remain on the action in accordance with the  
10 provisions of this section.

11

12 (e) Nothing in this section shall be interpreted to  
13 require naming the legislature as a party when the claim or  
14 cause of action arises from the enforcement or operation of  
15 any law.

16

17 **Section 2.** The legislature finds that Wyoming has a  
18 part-time citizen legislature. As such, state legislators  
19 are often engaged in other occupations and businesses. In  
20 today's society, with the proliferation of social media and  
21 the internet, being named as a defendant to a lawsuit can  
22 negatively impact a person's occupation or other business  
23 interests regardless of the subsequent outcome of the

1 litigation. The naming of a state legislator individually  
2 for actions taken by the legislature as a whole, or by a  
3 body of the legislature, or for official actions taken as a  
4 state legislator can negatively impact legitimate interests  
5 of the individual and accordingly discourage persons from  
6 seeking state legislative offices. The legislature further  
7 finds that the right not to be named individually for  
8 actions taken in an official capacity, or for actions taken  
9 by a legislative body, is not a matter of procedure, but a  
10 substantive right.

11

12 **Section 3.** W.S. 1-35-109 shall apply to any action  
13 pending or initiated on or after the effective date of this  
14 act.

15

16 **Section 4.** This act is effective immediately upon  
17 completion of all acts necessary for a bill to become law  
18 as provided by Article 4, Section 8 of the Wyoming  
19 Constitution.

20

21

(END)