



ARIZONA STATE SENATE
Fifty-First Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1221

attorney general representation; nonparty subpoena.

Purpose

Authorizes the Attorney General to represent an officer or employee of this state who is subject to a civil nonparty subpoena.

Background

In Valle del Sol, et al. v. Whiting, CV-10-01061-PHX-SRB, subpoenas for memos and letters were issued to 21 current and former lawmakers. The Legislature has complied with requests for public information, but personal records have also been subpoenaed.

A.R.S. §41-192.02 currently reads:

“A. The attorney general in his discretion is authorized to represent an officer or employee of this state against whom a civil action is brought in his individual capacity until such time as it is established as a matter of law that the alleged activity or events which form the basis of the complaint were not performed, or not directed to be performed, within the scope or course of the officer's or employee's duty or employment.”

Because the subpoenaed members are not parties to the above-named action, the Attorney General states that the Office of the Attorney General has no authority to represent those members.

There would be a negative fiscal impact to the state General Fund if the Attorney General's Office added FTE's to represent additional officers or employees of this state.

Provisions

1. Authorizes the Attorney General to represent a current or former officer or employee of this state who is subject to a civil nonparty subpoena. This authority is given in addition to current statute that authorizes the Attorney General to represent an officer or employee of this state against whom a civil action is brought in his individual capacity until it is established that the alleged activity that formed the basis of the complaint was not performed within the scope of the officer's or employee's duty or employment.
2. Allows an agency to employ legal counsel to provide representation to its current or former officers or employees under the above circumstances.

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3. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Clarifies that new authority applies to current or former officers and employees.

Senate Action

APPROP 1/28/14 DPA 8-0-1-0

Prepared by Senate Research

January 29, 2014

CS/ls