

By: West

S.B. No. 392

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to notice to the attorney general of challenges to the  
3 constitutionality of Texas statutes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 402.010(a) and (c), Government Code,  
6 are amended to read as follows:

7 (a) In an action in which a party to the litigation files a  
8 petition, motion, or other pleading challenging the  
9 constitutionality of a statute of this state, the party [~~court~~]  
10 shall, if the attorney general is not a party to or counsel involved  
11 in the litigation, serve notice of the constitutional question and  
12 a copy of the petition, motion, or other pleading that raises the  
13 challenge on the attorney general either by certified or registered  
14 mail or electronically to an e-mail address designated by the  
15 attorney general for the purposes of this section. Notice under  
16 this section must identify the statute in question, state the basis  
17 for the challenge, and specify the petition, motion, or other  
18 pleading that raises the challenge.

19 (c) A party's [~~court's~~] failure to file or serve notice as  
20 required by Subsection (a) does not deprive the court of  
21 jurisdiction or forfeit an otherwise timely filed claim or defense  
22 based on the challenge to the constitutionality of a statute of this  
23 state.

24 SECTION 2. Section 402.010, Government Code, as amended by

1 this Act, applies only to a petition, motion, or other pleading  
2 filed in litigation on or after the effective date of this Act. A  
3 pleading filed in litigation before the effective date of this Act  
4 is governed by the law applicable to the pleading immediately  
5 before the effective date of this Act, and that law is continued in  
6 effect for that purpose.

7         SECTION 3. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2013.