

HOUSE BILL 156

By Carr

AN ACT to amend Tennessee Code Annotated, Title 8,  
relative to public officers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

8-1-113.

(a) In all cases where the interest of the state requires and the attorney general and reporter chooses not to act, the governor may employ special counsel:

- (1) To defend the state in any action;
- (2) To prosecute any action on behalf of the state; or
- (3) To initiate any action or otherwise represent the interests of the state.

(b) The governor shall give consideration to whether the person or firm to be employed as special counsel:

(1) To defend the state in any action, is then serving as counsel for a party in any action by that party against the state and whether the action, if adjudicated in that party's favor, is likely to result in an increase in state expenditures;

(2) To prosecute any action on behalf of the state, is then serving as counsel in defense of any action against the state; or

(3) To initiate any action or otherwise represent the interests of the state, is then serving as counsel in any action for or against another state.

(c) Such counsel shall be paid such compensation for services as the governor may deem just, the same to be paid out of any money in the treasury not otherwise

appropriated, upon the certificate of the governor certifying the amount to the commissioner of finance and administration.

(d) The special counsel employed by the governor pursuant to this section is separate and distinct from any counsel employed pursuant to § 8-6-106.

SECTION 2. Tennessee Code Annotated, Section 8-6-109(b), is amended by adding the following language as a new, appropriately designated subdivision:

( ) To exercise discretion to defend the state in any action upon written request of the governor, provided that:

(A) If the attorney general and reporter chooses to defend the state pursuant to this subdivision, then the attorney general and reporter shall not accept any settlement or other final resolution in any such action requested pursuant to this subdivision unless the governor approves of such settlement or other final resolution; or

(B) If the attorney general and reporter chooses not to defend the state pursuant to this subdivision, then the attorney general and reporter shall send a written report to the governor certifying the reasons for the decision within thirty (30) days of receiving the governor's written request.

( ) To exercise discretion to prosecute any action on behalf of the state upon written request of the governor, provided that:

(A) If the attorney general and reporter chooses to prosecute on behalf of the state pursuant to this subdivision, then the attorney general and reporter shall not accept any settlement or other final resolution in any such action requested pursuant to this subdivision unless the governor approves of such settlement or other final resolution; or

(B) If the attorney general and reporter chooses not to prosecute on behalf of the state pursuant to this subdivision, then the attorney general and reporter shall send a written report to the governor certifying the reasons for the decision within thirty (30) days of receiving the governor's written request.

( ) To exercise discretion to initiate any action or otherwise represent the interests of the state upon written request of the governor, provided that:

(A) If the attorney general and reporter chooses to initiate an action or otherwise represent the interests of the state pursuant to this subdivision, then the attorney general and reporter shall not accept any settlement or other final resolution in any such action requested pursuant to this subdivision unless the governor approves of such settlement or other final resolution; or

(B) If the attorney general and reporter chooses not to initiate an action or otherwise represent the interests of the state pursuant to this subdivision, then the attorney general and reporter shall send a written report to the governor certifying the reasons for the decision within thirty (30) days of receiving the governor's written request.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.