

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 856
May 4, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40535-MM-50

Short Title: GA - Defend Challenge to Laws and Rules. (Public)

Sponsors: Representative C. Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE THE GENERAL ASSEMBLY A NECESSARY PARTY TO ANY
3 CHALLENGE TO THE VALIDITY OR CONSTITUTIONALITY OF ANY NORTH
4 CAROLINA LAW OR ADMINISTRATIVE RULE.
5 The General Assembly of North Carolina enacts:
6 SECTION 1. G.S. 120-32.6(b) reads as rewritten:
7 "(b) General Assembly Acting on Behalf of the State of North Carolina in Certain Actions.
8 – Whenever the validity or constitutionality of an act of the General ~~Assembly or~~ Assembly, any
9 portion of a law enacted by the General Assembly, rule adopted pursuant to an act of the General
10 Assembly, or a provision of the Constitution of North Carolina is the subject of an action in any
11 State or federal court, the Speaker of the House of Representatives and the President Pro Tempore
12 of the Senate, as agents of the State through the General Assembly, shall be necessary parties and
13 shall be deemed to be a client of the Attorney General for purposes of that action as a matter of
14 law and pursuant to Section 7(2) of Article III of the North Carolina Constitution. In such cases,
15 the General Assembly shall be deemed to be the State of North Carolina to the extent provided
16 in G.S. 1-72.2(a) unless waived pursuant to this subsection. Additionally, in such cases, the
17 General Assembly through the Speaker of the House of Representatives and President Pro
18 Tempore of the Senate jointly shall possess final decision-making authority with respect to the
19 defense of the challenged act of the General Assembly or provision of the North Carolina
20 Constitution. In any such action, the General Assembly, through the Speaker of the House of
21 Representatives and the President Pro Tempore of the Senate, may waive such representation and
22 decline to participate in the action by written notice to the Attorney General."
23 SECTION 2. This act is effective when it becomes law.

