

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 278

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE OFFICE OF LEGISLATIVE COUNSEL; PROVIDING LEGISLATIVE FINDINGS AND INTENT; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 67, IDAHO CODE, TO PROVIDE FOR THE OFFICE OF LEGISLATIVE COUNSEL, TO PROVIDE FOR A PROCESS FOR SELECTING LEGISLATIVE COUNSELORS, TO PROVIDE REQUIREMENTS FOR THE SELECTION OF LEGISLATIVE COUNSELOR OF IDAHO, TO PROVIDE DUTIES OF THE LEGISLATIVE COUNSELORS OF IDAHO, TO PROVIDE REQUIREMENTS RELATING TO THE LOCATION OF CERTAIN OFFICES, TO PROVIDE THAT CERTAIN RECORDS ARE CONFIDENTIAL AND TO PROVIDE EXCEPTIONS TO SUCH CONFIDENTIALITY; AMENDING SECTION 9-340F, IDAHO CODE, TO PROVIDE THAT ALL PAPERS, RECORDS AND CORRESPONDENCE PERTAINING TO THE WORK OF THE OFFICE OF LEGISLATIVE COUNSEL ARE EXEMPT FROM DISCLOSURE; AND AMENDING SECTION 67-451, IDAHO CODE, TO INCREASE CERTAIN AMOUNTS TRANSFERRED INTO THE LEGISLATIVE ACCOUNT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Constitution of the state of Idaho establishes the executive and legislative branches of government as separate and independent entities with distinct and delineated powers. It is required by the Constitution that the power to make and determine policy for the government of the state of Idaho is vested in the Legislature. The Legislature is responsible for making laws that constrain the internal operation of government, including the operation of the executive branch. The Legislature therefore finds that there is an inherent conflict of interest when a member of the Legislature seeks a legal opinion from the Office of the Attorney General, which is an arm of the executive branch. The Legislature also finds that it has statutory authority to employ attorneys other than those under the supervision of the Attorney General. Therefore, it is the intent of the Legislature to so employ legislative counsel by establishing the Office of Legislative Counsel. In so establishing, it is the further intent of the Legislature that the Joint Finance-Appropriations Committee adjust the fiscal year 2012 appropriation to the Attorney General in any manner it deems appropriate in order to offset costs associated with providing for and maintaining the Office of Legislative Counsel and in order to prevent undue cost to government.

SECTION 2. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 48, Title 67, Idaho Code, and to read as follows:

CHAPTER 48
OFFICE OF LEGISLATIVE COUNSEL

1 67-4801. OFFICE OF LEGISLATIVE COUNSEL CREATED -- SELECTION --
 2 TERM. There is hereby created an office to be known as the office of leg-
 3 islative counsel, which shall consist of two (2) officers, each to be known
 4 as a legislative counselor of Idaho. The initial legislative counselors
 5 of Idaho shall be selected by concurrent resolution of the senate and the
 6 house of representatives during the 2013 regular session of the legislature
 7 and by concurrent resolution of the senate and the house of representatives
 8 every other regular session of the legislature thereafter. The legislative
 9 counselors of Idaho shall serve until successors are selected. If a vacancy
 10 should occur while the legislature is not in session, the joint legislative
 11 oversight committee shall select a legislative counselor to serve until the
 12 legislature in session makes selection of such officer. Each legislative
 13 counselor of Idaho shall be chosen without reference or regard to party
 14 affiliation and shall be chosen solely by reason of his or her fitness to
 15 perform the duties of the office of legislative counsel. The legislative
 16 counselors of Idaho are nonclassified, at-will employees and shall serve at
 17 the pleasure of the legislature.

18 67-4802. REQUIREMENTS FOR SELECTION OF LEGISLATIVE COUNSELOR OF
 19 IDAHO. No person shall be selected as a legislative counselor of Idaho unless
 20 at the time of his or her selection he or she is an attorney duly admitted
 21 to practice before the courts of the state of Idaho, is in good standing and
 22 has practiced the profession of law for at least five (5) years immediately
 23 preceding his or her selection.

24 67-4803. DUTIES OF THE LEGISLATIVE COUNSELORS OF IDAHO. The legisla-
 25 tive counselors of Idaho shall have the following duties and responsibili-
 26 ties:

27 (1) Advise members of the legislature and legislative committees as to
 28 any and all matters pertaining to the preparation and legality of legisla-
 29 tive bills;

30 (2) Advise legislative committees that are appointed to carry out du-
 31 ties between regular sessions of the legislature in regard to their work; and

32 (3) Advise the legislature as to any proposed revisions to the Idaho
 33 Code.

34 67-4804. OFFICE. The legislative counselors of Idaho shall be in at-
 35 tendance upon all sessions of the legislature and the office of legislative
 36 counsel shall be in the state capitol in Boise. The legislative counselors
 37 of Idaho shall be provided with suitable offices convenient to both the sen-
 38 ate and the house of representatives.

39 67-4805. CONFIDENTIAL RECORDS -- EXCEPTIONS. All papers, records and
 40 correspondence pertaining to the work of the office of legislative counsel
 41 shall be maintained in the permanent office of the legislative counsel. All
 42 such papers, records and correspondence shall be confidential and exempt
 43 from disclosure as provided in section 9-340F, Idaho Code, except:

44 (1) As otherwise authorized by the person for whom the work was per-
 45 formed; or

46 (2) As the legislature by concurrent resolution may direct.

1 SECTION 3. That Section 9-340F, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 9-340F. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUP-
4 PORTING MATERIALS, OFFICE OF LEGISLATIVE COUNSEL, TAX COMMISSION, PETROLEUM
5 CLEAN WATER TRUST FUND. The following records are exempt from disclosure:

6 (1) Records consisting of draft legislation and documents specifically
7 related to such draft legislation or research requests submitted to the leg-
8 islative services office by a member of the Idaho legislature for the purpose
9 of placing such draft legislation into a form suitable for introduction as
10 official proposed legislation of the legislature of the state of Idaho, un-
11 less the individual legislator having submitted or requested such records or
12 research agrees to waive the provisions of confidentiality provided by this
13 subsection.

14 (2) All papers, physical and electronic records and correspondence or
15 other supporting materials comprising the work papers in the possession of
16 the legislative services office or the director of legislative performance
17 evaluations prior to release of the related final audit and all other records
18 or materials in the possession of the legislative services office or the di-
19 rector of legislative performance evaluations that would otherwise be con-
20 fidential or exempt from disclosure.

21 (3) Records consisting of draft congressional and legislative redis-
22 tricting plans and documents specifically related to such draft redistrict-
23 ing plans or research requests submitted to the commission staff by a member
24 of the commission for reapportionment for the purpose of placing such draft
25 redistricting plan into form suitable for presentation to the full member-
26 ship of the commission, unless the individual commission member having sub-
27 mitted or requested such plans or research agrees to waive the provisions of
28 confidentiality provided by this subsection.

29 (4) All papers, records and correspondence pertaining to the work of
30 the office of legislative counsel, except as otherwise provided in section
31 67-4805, Idaho Code.

32 (5) Records that identify the method by which the Idaho state tax com-
33 mission selects tax returns for audit review.

34 (56) Underwriting and claims records of the Idaho petroleum clean water
35 trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A, 41-4912
36 or 41-4912A, Idaho Code. Provided however, that this subsection shall not
37 prevent the Idaho petroleum clean water trust fund's submittal to the Idaho
38 department of environmental quality, or other regulatory agencies of infor-
39 mation necessary to satisfy an insured's corrective action requirement un-
40 der applicable federal or state standards in the event of a release into the
41 environment from a petroleum storage tank; and provided further that noth-
42 ing in this subsection shall prevent the Idaho petroleum clean water trust
43 fund from providing auditing, reporting, or actuarial information as other-
44 wise required of it pursuant to section 41-4919, 41-4925A, 41-4928, 41-4930,
45 41-4932, 41-4937 or 41-4938, Idaho Code.

46 SECTION 4. That Section 67-451, Idaho Code, be, and the same is hereby
47 amended to read as follows:

67-451. LEGISLATIVE ACCOUNT CREATED -- DUTIES OF CONTROLLER -- DISBURSEMENTS FROM ACCOUNT -- REPORT OF DISBURSEMENTS. (1) There is hereby created in the state treasury the legislative account. The legislative account shall consist of such moneys as are placed into it by other appropriations, by receipts paid into the legislative account, and the moneys appropriated and transferred into it according to the provisions of this act.

(2) There is hereby appropriated out of the general fund and transferred into the legislative account, and commencing January 1, 2008, the state controller is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

January 1	\$1,825,000 1,912,500
March 1	\$1,825,000
June 1	\$1,445,000 1,532,500
September 1	\$1,660,000

(3) The president pro tempore of the senate and the speaker of the house of representatives are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall include, but are not necessarily limited to, salaries and wages of officers, members, and employees of the legislature, consultants and other expert or professional personnel, travel expenses of officers, members, and employees of the legislature, other current expenses incurred in any operation or function of the legislature, premiums for life, accidental death and dismemberment, hospital, medical, surgical and major medical insurance for members of the legislature during their terms of office, and for employees of the legislature during the period of their employment, and capital outlay items necessary for any operation or function of the legislature. The signature of the president pro tempore of the senate or the speaker of the house of representatives on any voucher or claim for payment shall be sufficient authority for the state controller to pay the same. Expenses for any interim activity of the legislature or legislators shall be paid in the same manner. Expenses for any interim legislative committees shall be paid in the same manner, if previously authorized by concurrent resolution.

(4) The state controller is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers may instruct the state controller. A copy of such report must be delivered to the president pro tempore of the senate and the speaker of the house of representatives and to the governor by no later than the fifth working day of the following month.