

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 418

BY WAYS AND MEANS COMMITTEE

AN ACT

1
2 RELATING TO IMMUNIZATION LITIGATION; AMENDING SECTION 67-1406, IDAHO CODE,
3 TO REVISE PROVISIONS REGARDING THE ATTORNEY GENERAL'S DUTIES WITH
4 REGARD TO CERTAIN LITIGATION AND TO MAKE TECHNICAL CORRECTIONS; AND
5 DECLARING AN EMERGENCY.

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

7 SECTION 1. That Section 67-1406, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwith-
10 standing any other provision of law to the contrary, no department, agency,
11 office, officers, board, commission, institution or other state entity
12 shall be represented by or obtain its legal advice from an attorney at law
13 other than the attorney general, except as follows:

14 (1) The legislative and judicial branches of government and the gover-
15 nor may employ attorneys other than those under the supervision of the attor-
16 ney general, and such attorneys may appear in any court. However, such enti-
17 ties may, upon request, utilize the attorney general's legal services.

18 (2) Those state entities within the department of self-governing agen-
19 cies ~~which are~~ enumerated in section 67-2601(2) (a), (b), and (h), Idaho
20 Code, and colleges and universities may employ private counsel to advise
21 them and represent them before courts of the state of Idaho. Such entities
22 may also obtain legal services from the attorney general on such terms as the
23 parties may agree.

24 (3) Whenever the attorney general determines that it is necessary or
25 appropriate in the public interest, the attorney general may authorize con-
26 tracts for legal services pursuant to the provisions of section 67-1409,
27 Idaho Code.

28 (4) The provisions of section 67-1401, Idaho Code, shall govern the
29 normal relationship between the attorney general and the state entities in
30 the executive branch of state government. However, if after consultation
31 with the attorney general, the governor determines in his sole judgment,
32 which shall not be subject to judicial review, that counsel assigned to rep-
33 resent or give legal advice to any state entity, other than the lieutenant
34 governor, state controller, state treasurer, secretary of state, attorney
35 general, and the superintendent of public instruction, cannot effectively
36 advocate or pursue the policies of the governor, the governor shall request
37 that other counsel be provided by the attorney general, and the attorney gen-
38 eral shall provide from within the office of the attorney general or obtain
39 from outside the office of the attorney general, depending upon the request
40 of the governor, qualified counsel acceptable to the governor to represent
41 such state entity.

1 (5) Any separate counsel employed pursuant to the foregoing exceptions
2 shall be compensated with funds appropriated to such state entity, unless
3 such separate counsel shall have been employed at the request or convenience
4 of the attorney general or because of a conflict in representation by the at-
5 torney general.

6 (6) Notwithstanding the provisions of subsection (1) of this section or
7 any other provision of law to the contrary, the attorney general shall have
8 the exclusive authority to defend the state in any litigation over legisla-
9 tion enacted by the Idaho legislature regarding federal policy on immuniza-
10 tions, unless the attorney general determines its office has a conflict of
11 interest. No public moneys shall be used to engage legal representation in
12 such matters outside of the attorney general's office except in the case of a
13 conflict of interest declared by the attorney general.

14 SECTION 2. An emergency existing therefor, which emergency is hereby
15 declared to exist, this act shall be in full force and effect on and after its
16 passage and approval.