

**28 USC §2403 | INTERVENTION BY UNITED STATES OR A STATE;
CONSTITUTIONAL QUESTION**

(a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

(June 25, 1948, ch. 646, 62 Stat. 971 ; Pub. L. 94-381, §5, Aug. 12, 1976, 90 Stat. 1120 .)



Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., §401 (Aug. 24, 1937, ch. 754, §1, 50 Stat. 751).

Word "action" was added before "suit or proceeding", in view of Rule 2 of the Federal Rules of Civil Procedure.

Since this section applies to all Federal courts, the word "suit" was not required to be deleted by such rule.

"Court of the United States" is defined in section 451 of this title. Direct appeal from decisions invalidating Acts of Congress is provided by section 1252 of this title.

Changes were made in phraseology.

Editorial Notes

Amendments

1976-Pub. L. 94–381, §5(b), inserted "or a State" after "United States" in section catchline.

Subsecs. (a), (b). Pub. L. 94–381, §5(a), designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

Effective Date of 1976 Amendment

Amendment by Pub. L. 94–381 not applicable to any action commenced on or before Aug. 12, 1976, see section 7 of Pub. L. 94–381, set out as a note under section 2284 of this title.

