



February 25, 2005

HOUSE BILL No. 1836

DIGEST OF HB 1836 (Updated February 23, 2005 7:03 pm - DI 73)

Citations Affected: IC 36-1.

Synopsis: Local spending on criminal defense. Provides that a county, municipality, township, or municipal corporation may not pay the legal expenses of an employee or officer to defend against a criminal action, certain civil actions, or a proceeding in which the employee or officer is charged with an infraction. Requires reimbursement of the reasonable expenses of the employee or officer (as determined by the local unit) if the employee or officer is found to have no criminal or civil liability.

Effective: July 1, 2005.

Ayres, Aguilera, Foley, Dobis

January 25, 2005, read first time and referred to Committee on Local Government.
February 24, 2005, amended, reported — Do Pass.

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February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1836



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-1-17 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 17. Defense Expenses for Unit and Municipal**
5 **Corporation Employees**

6 **Sec. 1. As used in this chapter, "criminal action" means a**
7 **prosecution against an accused individual alleging the commission**
8 **of a felony or misdemeanor.**

9 **Sec. 2. Except as provided in section 3 of this chapter, a unit or**
10 **municipal corporation may not pay the legal expenses incurred by**
11 **an officer or employee of the unit or the municipal corporation:**

- 12 **(1) in defending against:**
 - 13 **(A) a criminal action;**
 - 14 **(B) a civil action brought by the attorney general of the**
 - 15 **United States, a United States attorney, the attorney**
 - 16 **general of Indiana, or an Indiana prosecuting attorney**
 - 17 **under:**

HB 1836—LS 7633/DI 107+



1 (i) IC 34-24-1;
 2 (ii) IC 34-24-2;
 3 (iii) IC 34-24-3;
 4 (iv) IC 5-11-5;
 5 (v) IC 5-11-6;
 6 (vi) IC 5-13-6;
 7 (vii) IC 5-13-14-3; or
 8 (viii) 18 U.S.C. 1964; or
 9 (C) a proceeding to enforce an ordinance or a statute
 10 defining an infraction; or
 11 (2) who is the target of a grand jury investigation, if the scope
 12 of the investigation includes a claim that the officer or
 13 employee committed a criminal act.

14 **Sec. 3. (a) An officer or employee of a unit or municipal**
 15 **corporation who is charged with:**
 16 (1) a crime; or
 17 (2) an infraction;
 18 relating to an act that was within the scope of the official duties of
 19 the officer or employee may apply to the fiscal body of the unit or
 20 municipal corporation for reimbursement of reasonable and
 21 customarily charged expenses incurred in the officer's or
 22 employee's defense against those charges, if all charges have been
 23 dismissed or the officer or employee has been found not guilty of
 24 all charges. The fiscal body of the unit or municipal corporation
 25 shall reimburse the officer or employee for reasonable and
 26 customarily charged expenses, as determined by the fiscal body of
 27 the unit or municipal corporation, incurred in the officer's or
 28 employee's defense against those charges, if all charges have been
 29 dismissed or the officer or employee has been found not guilty of
 30 all charges.

31 (b) An officer or employee of a unit or municipal corporation
 32 who is the target of a grand jury investigation may apply to the
 33 fiscal body of the unit or municipal corporation for reimbursement
 34 of reasonable and customarily charged expenses incurred by the
 35 officer or employee resulting from a grand jury investigation, if the
 36 grand jury fails to indict the officer or employee, and the acts were
 37 within the scope of the official duties of the officer or employee.
 38 The fiscal body of the unit or municipal corporation shall
 39 reimburse the officer or employee for reasonable and customarily
 40 charged expenses, as determined by the fiscal body of the unit or
 41 municipal corporation, incurred by the officer or employee as a
 42 result of the grand jury investigation, if the grand jury fails to

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indict the officer or employee.

(c) An officer or employee of a unit or municipal corporation who is the defendant in a civil action described in section 2(1)(B)(i) through 2(1)(B)(viii) of this chapter and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense in the civil action. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action if:

- (1) all claims that formed the basis of the civil action have been dismissed; or**
- (2) a judgment is rendered in favor of the officer or employee on all counts in the civil action.**

Sec. 4. The fiscal body of a unit or municipal corporation may:

- (1) act on an application under section 3 of this chapter without a hearing; and**
- (2) require an officer or employee seeking reimbursement under this chapter to:

 - (A) answer questions under oath; or**
 - (B) provide information or documents concerning the case or investigation for which the officer or employee is seeking reimbursement.****

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1836, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 14, delete "under:" and insert "**by the attorney general of the United States, a United States attorney, the attorney general of Indiana, or an Indiana prosecuting attorney under:**

- (i) IC 34-24-1;
- (ii) IC 34-24-2;
- (iii) IC 34-24-3;
- (iv) IC 5-11-5;
- (v) IC 5-11-6;
- (vi) IC 5-13-6;
- (vii) IC 5-13-14-3; or
- (viii) 18 U.S.C. 1964; or".

Page 1, delete lines 15 through 17.

Page 2, delete lines 1 through 3.

Page 2, line 13, delete "that individual's acts as an officer or employee," and insert "**an act that was within the scope of the official duties of the officer or employee**".

Page 2, line 15, after "reasonable" insert "**and customarily charged**".

Page 2, line 18, delete "the" and insert "**all**".

Page 2, line 18, after "charges." insert "**The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges.**".

Page 2, line 22, after "reasonable" insert "**and customarily charged**".

Page 2, line 24, delete "of the officer or".

Page 2, line 25, delete "employee that are the subject of the grand jury investigation".

Page 2, line 26, delete "officer's or employee's".

Page 2, line 26, after "duties" delete "." and insert "**of the officer or employee. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred by the officer or**

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employee as a result of the grand jury investigation, if the grand jury fails to indict the officer or employee."

Page 2, line 28, delete "2(1)(B)" and insert "**2(1)(B)(i) through 2(1)(B)(viii)**".

Page 2, line 29, after "chapter" insert "**and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee**".

Page 2, line 30, after "reasonable" insert "**and customarily charged**".

Page 2, line 31, after "action" insert "**. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action**".

Page 2, line 31, after "if" insert ":".

Page 2, line 31, delete "either:".

Page 2, line 34, delete "the officer or employee was found to have no liability" and insert "**a judgment is rendered in favor of the officer or employee on all counts**".

and when so amended that said bill do pass.

(Reference is to HB 1836 as introduced.)

HINKLE, Chair

Committee Vote: yeas 9, nays 0.

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