

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.

SENATE ENROLLED ACT No. 322

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]:

Chapter 17. Defense Expenses for Unit and Municipal Corporation Officers and Employees

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

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

(1) in defending against:

(A) a criminal action;

(B) a civil action brought 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;



C
O
P
Y

- (vi) IC 5-13-6;
- (vii) IC 5-13-14-3; or
- (viii) 18 U.S.C. 1964; or

(C) a proceeding to enforce an ordinance or a statute defining an infraction; or

(2) who is the target of a grand jury investigation, if the scope of the investigation includes a claim that the officer or employee committed a criminal act.

Sec. 3. (a) An officer or employee of a unit or municipal corporation who is charged with:

- (1) a crime; or
- (2) an infraction;

relating to an act that was 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 against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges. 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.

(b) An officer or employee of a unit or municipal corporation who is the target of a grand jury investigation may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred by the officer or employee resulting from the grand jury investigation, if the grand jury fails to indict the officer or employee and the acts investigated by the grand jury were within the scope of the official duties 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 employee as a result of the grand jury investigation, if the grand jury fails to 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 section 2(1)(B)(viii) of this chapter and brought by a person described in section 2(1)(B) of this chapter that involves an

**C
O
P
Y**



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.

SECTION 2. An emergency is declared for this act.

C
O
P
Y



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

C
O
P
Y

SEA 322 — CC 1+

