

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S4/3/13
A Bill

HOUSE BILL 1892

5 By: Representative Bell
6 *By: Senator J. Woods*
7

8
9 **For An Act To Be Entitled**

10 AN ACT TO ALLOW THE GOVERNMENTAL BONDING BOARD TO
11 SEEK CIVIL REMEDIES ON BEHALF OF A PUBLIC OFFICIAL,
12 OFFICER, OR EMPLOYEE; TO CLARIFY THE LAW CONCERNING
13 THE AVAILABLE REMEDIES AND THE GOVERNMENTAL BONDING
14 BOARD'S RESPONSIBILITIES UNDER THE SELF-INSURED
15 FIDELITY BOND PROGRAM; TO MAKE TECHNICAL CORRECTIONS;
16 AND FOR OTHER PURPOSES.
17

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19 **Subtitle**

20 TO ALLOW THE GOVERNMENTAL BONDING BOARD
21 TO SEEK CIVIL REMEDIES ON BEHALF OF A
22 PUBLIC OFFICIAL, OFFICER, OR EMPLOYEE AND
23 TO CLARIFY THE LAW CONCERNING THE
24 AVAILABLE REMEDIES AND THE GOVERNMENTAL
25 BONDING BOARD'S RESPONSIBILITIES.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code § 21-2-708(a) and (b), concerning notice of
31 proof of loss, investigations, and remedies under the Self-Insured Fidelity
32 Bond Program, are amended to read as follows:

33 (a) ~~It shall be the duty and responsibility of the~~ The Legislative
34 Auditor, with the approval of the Legislative Joint Auditing Committee, ~~to~~
35 shall give notice and make proof of loss to the ~~board on fidelity bonds~~
36 Governmental Bonding Board under the Self-Insured Fidelity Bond Program on



1 behalf of ~~any~~ a public official, officer, or employee when the audit ~~report~~
 2 of the records of ~~any such~~ the public official, officer, or employee reflects
 3 ~~apparent~~ unauthorized disbursements or unaccounted-for funds or property for
 4 which the public official, officer, or employee may be liable.

5 (b) ~~The~~ If an audit reflects unauthorized disbursements or
 6 unaccounted-for funds or property for which a public official, officer, or
 7 employee may be liable, then the Legislative Auditor shall request that: the

8 (1) The appropriate prosecuting attorney or the Attorney General
 9 ~~to~~ assist the state or the appropriate political subdivision in obtaining
 10 restitution ~~when the audit report reflects apparent unauthorized~~
 11 ~~disbursements or unaccounted-for funds or property for which the public~~
 12 ~~official, officer, or employee may be liable;~~ and

13 (2) The appropriate city attorney, county attorney, prosecuting
 14 attorney, or the Attorney General assist the state or appropriate political
 15 subdivision in filing a civil lawsuit against the public official, officer,
 16 or employee if the board determines that civil remedies should be pursued
 17 under § 21-2-709(a).

18
 19 SECTION 2. Arkansas Code § 21-2-709(a)(2), concerning the
 20 determination of coverage under the Self-Insured Fidelity Bond Program, is
 21 amended to read as follows:

22 (2)~~(A)~~ If the board determines that the loss is covered under
 23 the program, ~~the~~ then:

24 (A) The Insurance Commissioner shall authorize fidelity
 25 bond loss payments from the Fidelity Bond Trust Fund to the participating
 26 governmental entity on a timely basis; and

27 (B) The board shall ~~provide:~~

28 (i) Provide a timely explanation of a loss payment
 29 and a denial of loss to the Legislative Auditor and to the participating
 30 governmental entity; and

31 (ii)(a) Determine whether civil remedies should be
 32 pursued to recover the loss.

33 (b) In making a determination under
 34 subdivision (a)(2)(B)(ii)(a) of this section, the board shall consider the
 35 cost effectiveness of pursuing civil remedies.

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/s/Bell

APPROVED: 04/10/2013