

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4  
5 By: Representative Bell  
6 By: Senator J. Woods  
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As Engrossed: S4/3/13  
**A Bill**

HOUSE BILL 1892

**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.

**Subtitle**

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19 TO ALLOW THE GOVERNMENTAL BONDING BOARD  
20 TO SEEK CIVIL REMEDIES ON BEHALF OF A  
21 PUBLIC OFFICIAL, OFFICER, OR EMPLOYEE AND  
22 TO CLARIFY THE LAW CONCERNING THE  
23 AVAILABLE REMEDIES AND THE GOVERNMENTAL  
24 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*