

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

HOUSE BILL 1574

4
5 By: Representative Eubanks
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For An Act To Be Entitled

8 AN ACT CONCERNING THE REIMBURSEMENT OF LEGAL FEES
9 INCURRED BY ELECTED STATE OFFICIALS; TO DECLARE AN
10 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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13 CONCERNING THE REIMBURSEMENT OF LEGAL
14 FEES INCURRED BY ELECTED STATE OFFICIALS;
15 AND TO DECLARE AN EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 21, Chapter 1, Subchapter 1, is amended
22 to add an additional section to read as follows:

23 21-1-107. Elected state officials sued in personal capacity –
24 Reimbursement for legal fees – Definition.

25 (a) As used in this section, “elected state official” means a person
26 holding an elective office of state government as:

- 27 (1) Governor;
28 (2) Lieutenant Governor;
29 (3) Secretary of State;
30 (4) Treasurer of State;
31 (5) Auditor of State;
32 (6) Attorney General;
33 (7) Commissioner of State Lands; or
34 (8) A member of the General Assembly.

35 (b) An elected state official may be reimbursed by the state for legal
36 fees and costs incurred when:



1 (1) The elected state official:

2 (A) Is sued in his or her personal capacity in a claim
 3 filed in:

4 (i) The Arkansas State Claims Commission;

5 (ii) A state court; or

6 (iii) A federal court;

7 (B) Has been sued for actions undertaken in his or her
 8 official capacity as an elected state official;

9 (C) Requests in writing representation by the Attorney
 10 General under § 25-16-702 and the representation is denied by the Attorney
 11 General in writing; and

12 (D) Retains legal counsel at his or her own expense or
 13 counsel is appointed or hired by the Governor to represent the elected state
 14 official and the elected state official pays for the services at his or her
 15 own expense; and

16 (2) Either

17 (A) The elected state official substantially prevails on
 18 the merit of the action before the court or commission; or

19 (B) The suit against the elected state official is
 20 dismissed:

21 (i) By the court or commission with or without
 22 prejudice; or

23 (ii) Upon motion by the plaintiff.

24 (c)(1) An elected state official may file a claim with the commission
 25 to be reimbursed reasonable attorney's fees and other litigation expenses
 26 reasonably incurred.

27 (2) A claim for reasonable attorney's fees and litigation
 28 expenses reasonably incurred in an action against the elected state official
 29 shall be filed with the commission pursuant to § 19-10-201 et seq. within
 30 sixty (60) days of the final disposition of the matter brought against the
 31 elected state official.

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 33 SECTION 2. DO NOT CODIFY. Retroactive effective date.

34 This act is effective for all causes of action filed against, and for
 35 all legal fees incurred by, an elected state official after January 1, 2019.

1 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly of the State of Arkansas that that elected state officials
3 are threatened by lawsuits for the performance of their elected duties; that
4 legal representation by the Attorney General is not always available for
5 elected state officials; that the legal fees incurred by elected state
6 officials who have to provide their own legal representation place a burden
7 on those elected state officials; and that this act is immediately necessary
8 because an elected state official who has to provide their own legal
9 representation threatens the public peace, health, and safety of the citizens
10 of Arkansas by threatening the ability of an elected state official to defend
11 actions undertaken in his or her official capacity for the benefit of the
12 State of Arkansas. Therefore, an emergency is declared to exist, and this act
13 being immediately necessary for the preservation of the public peace, health,
14 and safety shall become effective on:

15 (1) The date of its approval by the Governor;

16 (2) If the bill is neither approved nor vetoed by the Governor,
17 the expiration of the period of time during which the Governor may veto the
18 bill; or

19 (3) If the bill is vetoed by the Governor and the veto is
20 overridden, the date the last house overrides the veto.

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