

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 4/3/87

HOUSE BILL 1827

By: Representative Mahony

"AN ACT TO AMEND ARKANSAS STATUTE 12-3407 TO PROVIDE THAT WHEN ANY CITY EMPLOYEE IS COVERED BY LEGAL INSURANCE, THE ATTORNEY GENERAL SHALL NOT REPRESENT THE EMPLOYEE NOR SHALL ANY JUDGMENTS AGAINST THE EMPLOYEE BE PAID BY THE STATE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1 of Act 711 of 1983, the same being Arkansas Statute 12-3407, is hereby amended to read as follows:

"Section 1. When any city of the first class, city of the second class, incorporated town, county and their employees are called upon to assist the State and its employees, and as a result of assisting the State and its employees such cities, towns, counties and their employees are sued for their actions performed under the supervision of State officials and employees, the Attorney General shall defend such first class cities, second class cities, incorporated towns, counties and their employees, and should a judgment be rendered against the same, the State shall pay actual, but not punitive, damages adjudged by a State or Federal Court, or entered by such a court as a result of a compromise settlement approved and recommended by the Attorney General, based on an act or omission by the officer or employee while acting without malice and in good faith within the course and scope of his employment and in the performance of his official duties. Provided, that when such first class cities, second class cities, incorporated towns, counties, and their employees are covered by any contract of insurance providing for legal defense, such first class cities, second class cities, incorporated towns, counties, their employees, and their insurers are not entitled to legal defense by the Attorney General; and any judgment rendered against such first class cities, second class cities, incorporated towns, counties, their

employees, or their insurers shall be paid by the State only to the extent that such judgment amount exceeds the limits of liability established in the contract of insurance.

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. It is hereby found and determined by the General Assembly that a question has arisen regarding the applicability of Act 711 of 1983 regarding cases in which first class cities, second class cities, incorporated towns, counties and their employees are covered by contracts of insurance. It was the intent of the General Assembly in enacting Act 711 of 1983 that providers of insurance coverage for said entities not be relieved of their obligations to said entities with regard to the provision of legal defense and the payment of judgments for said entities. It is further hereby found and determined by the General Assembly that cases are or may be pending in which this issue is in question, and that the immediate passage of this Act is necessary in order to clarify for the courts the legislative intent with regard to this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Rep. Mahony

