

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/7/87

HOUSE BILL 1960

By: Representatives Barclay, Thicksten, Ward

"AN ACT TO CLARIFY THE LAW AS TO THE LIMITS OF LIABILITY OF EMPLOYEES AND VOLUNTEERS OF COUNTIES, MUNICIPAL CORPORATIONS, SCHOOL DISTRICTS, SPECIAL IMPROVEMENT DISTRICTS, AND ALL OTHER POLITICAL SUBDIVISIONS OF THE STATE OF ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES."

WHEREAS, Act 165 of 1969 (Ark. Stat. 12-2901 - 12-2903) provided statutory tort immunity to units of local government after more than 150 years of tort immunity for local government under the common law; and

WHEREAS, this statute has been upheld at least 17 times by the State Supreme Court and Federal Court decisions in the past 18 years; and

WHEREAS, two of these decisions, *Matthews v. Martin*, 280, Ark. 345,658 S W 2d 374 (1983) and *Autry v. Lawrence*, 286 Ark. 501, 696 S W 2d 315, have reaffirmed that local government employees in the performance of their official duties have the same immunity as their local government employer; and

WHEREAS, Section 3 of Act 165 of 1969 (Ark. Stat. 12-2903) requires political subdivisions to carry liability insurance on their motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act. These limits are now \$25,000 for injury or death for one person; \$50,000 for injuries or death for two or more persons and \$15,000 property damage; and

WHEREAS, under the Supreme Court opinion of *Sturdivant v. City of Farmington*, 255 Ark. 415, 500 S W 2d 769, (1973) local governments can be self-insured up to these limits and under other Arkansas laws can form pools and groups to better self-insure the risks; and

WHEREAS, the maximum combined limits for the local government employee in the performance of his official duty and the local government employer should be the minimum as provided in the Motor Vehicle Safety Responsibility Act,

NOW THEREFORE,

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

SECTION 1. The combined maximum liability of local government employees, volunteers and the local government employer in any action involving the use of a motor vehicle within the scope of their employment shall be the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act (Ark. Stat. Sec. 75-1402 et seq., Act 347 of 1953 as amended).

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 All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. EMERGENCY. It is hereby found and determined by the General Assembly that present law affirms governmental immunity of political subdivisions of the State but requires such political subdivisions to maintain motor vehicle liability insurance in the minimum amounts prescribed in the Motor Vehicle Financial Responsibility Law; that the Arkansas Supreme Court has held that local government employees in the performance of their duties have the same immunity as their local government employer; that this Act is designed to clarify the combined liability of local governmental entities and their employees and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Dick Barclay et al

