

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

A Bill

HOUSE BILL 1892

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

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

18
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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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 21-2-708(a) and (b), concerning notice of
30 proof of loss, investigations, and remedies under the Self-Insured Fidelity
31 Bond Program, are amended to read as follows:

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



1 of the records of ~~any such~~ the public official, officer, or employee reflects
 2 ~~apparent~~ unauthorized disbursements or unaccounted-for funds or property
 3 other than money and securities for which the public official, officer, or
 4 employee may be liable.

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

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

14 (2) The appropriate city attorney, county attorney, prosecuting
 15 attorney, or the Attorney General assist the state or appropriate political
 16 subdivision in filing a civil lawsuit against the public official, officer,
 17 or employee if the board determines that civil remedies should be pursued
 18 under § 21-2-709(a).
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20 SECTION 2. Arkansas Code § 21-2-709(a)(2), concerning the
 21 determination of coverage under the Self-Insured Fidelity Bond Program, is
 22 amended to read as follows:

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

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

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

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

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

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