

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S4/3/13
A Bill

HOUSE BILL 1892

By: Representative Bell
By: Senator J. Woods

For An Act To Be Entitled

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

Subtitle

TO ALLOW THE GOVERNMENTAL BONDING BOARD TO SEEK CIVIL REMEDIES ON BEHALF OF A PUBLIC OFFICIAL, OFFICER, OR EMPLOYEE AND TO CLARIFY THE LAW CONCERNING THE AVAILABLE REMEDIES AND THE GOVERNMENTAL BONDING BOARD'S RESPONSIBILITIES.

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

SECTION 1. Arkansas Code § 21-2-708(a) and (b), concerning notice of proof of loss, investigations, and remedies under the Self-Insured Fidelity Bond Program, are amended to read as follows:

(a) ~~It shall be the duty and responsibility of the~~ The Legislative Auditor, with the approval of the Legislative Joint Auditing Committee, ~~to~~ shall give notice and make proof of loss to the ~~board on fidelity bonds~~ Governmental Bonding Board under the Self-Insured Fidelity Bond Program on



behalf of ~~any~~ a public official, officer, or employee when the audit ~~report~~ of the records of ~~any such~~ the public official, officer, or employee reflects ~~apparent~~ unauthorized disbursements or unaccounted-for funds or property for which the public official, officer, or employee may be liable.

(b) ~~The~~ If an audit reflects unauthorized disbursements or unaccounted-for funds or property for which a public official, officer, or employee may be liable, then the Legislative Auditor shall request ~~that: the~~

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

(2) The appropriate city attorney, county attorney, prosecuting attorney, or the Attorney General assist the state or appropriate political subdivision in filing a civil lawsuit against the public official, officer, or employee if the board determines that civil remedies should be pursued under § 21-2-709(a).

SECTION 2. Arkansas Code § 21-2-709(a)(2), concerning the determination of coverage under the Self-Insured Fidelity Bond Program, is amended to read as follows:

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

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

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

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

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

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

/s/Bell