

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1574

By: Representative Eubanks

For An Act To Be Entitled

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

Subtitle

CONCERNING THE REIMBURSEMENT OF LEGAL
FEES INCURRED BY ELECTED STATE OFFICIALS;
AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 21, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

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

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

- (1) Governor;
- (2) Lieutenant Governor;
- (3) Secretary of State;
- (4) Treasurer of State;
- (5) Auditor of State;
- (6) Attorney General;
- (7) Commissioner of State Lands; or
- (8) A member of the General Assembly.

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



(1) The elected state official:

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

(i) The Arkansas State Claims Commission;

(ii) A state court; or

(iii) A federal court;

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

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

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

(2) Either

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

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

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

(ii) Upon motion by the plaintiff.

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

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

SECTION 2. DO NOT CODIFY. Retroactive effective date.

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

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

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.