

**REIMBURSEMENT OF LEGAL FEES AND  
COSTS TO OFFICERS AND EMPLOYEES**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael R. Styler**

AN ACT RELATING TO REIMBURSEMENT OF LEGAL FEES AND COSTS TO GOVERNMENT OFFICERS AND EMPLOYEES; ALLOWING RECOVERY OF ATTORNEYS' FEES AND COSTS AGAINST THE GOVERNMENT UNDER CERTAIN CIRCUMSTANCES; PROVIDING LIMITED RETROACTIVITY OF THE CHANGES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-30a-2**, as last amended by Chapter 131, Laws of Utah 1983

This act enacts uncodified material.

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **63-30a-2** is amended to read:

**63-30a-2. Indictment or information against officer or employee -- Reimbursement of attorneys' fees and court costs incurred in defense.**

(1) If a state grand jury indicts, or if an information is filed against, an officer or employee, in connection with or arising out of any act or omission of that officer or employee during the performance of his duties, within the scope of his employment, or under color of his authority, and that indictment or information is quashed or dismissed or results in a judgment of acquittal, unless the indictment or information is quashed or dismissed upon application or motion of the prosecuting attorney, that officer or employee shall be entitled to recover [from the public entity] reasonable attorneys' fees and court costs necessarily incurred in the defense of that indictment or information from the public entity, unless the officer or employee is found guilty of substantially the same misconduct that formed the basis for the indictment or information.

(2) If the officer or employee is acquitted of some of the charges or counts, or portions of the indictment or information are quashed or dismissed, that officer or employee shall be entitled

to recover from the public entity reasonable attorneys' fees and court costs necessarily incurred in the defense of those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the misconduct covered by those charges, counts, or portions of the indictment or information that were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same misconduct that formed the basis for charges, counts, or portions of the indictment or information of which the officer or employee was found guilty.

(3) An officer or employee who recovers under this section shall also be entitled to recover reasonable attorneys' fees and costs necessarily incurred by the officer or employee in recovering the attorneys' fees and costs allowed under this section, including attorneys' fees and costs incurred on appeal.

(4) Notwithstanding any other provision of this section, an officer or employee may not recover for the costs incurred in defense of any charge, count, or portion of the indictment or information that is quashed or dismissed upon application or motion of the prosecuting attorney.

**Section 2. Limited retroactivity.**

The amendments to Section 63-30a-2 effected by House Bill 421, 1998 Annual General Session of the Utah Legislature, apply to claims arising before May 4, 1998 if those claims are filed:

- (1) as provided in Title 63, Chapter 30, Governmental Immunity Act; and
- (2) within two years after the cause of action arises.