

1 **LIMITATION ON REIMBURSEMENT OF**
2 **LEGAL FEES AND COSTS TO OFFICERS**
3 **AND EMPLOYEES**

4 2000 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Chad E. Bennion**

7 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; EXCLUDING REIMBURSEMENT
8 FOR DEFENSE OF A MISDEMEANOR TRAFFIC CITATION TO AN OFFICER OR
9 EMPLOYEE; AND MAKING TECHNICAL CORRECTIONS.

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

11 AMENDS:

12 **63-30a-2**, as last amended by Chapter 307, Laws of Utah 1998

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

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

15 **63-30a-2. Indictment or information against officer or employee -- Reimbursement**
16 **of attorneys' fees and court costs incurred in defense.**

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

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

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

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

39 (4) Notwithstanding any other provision of this section, an officer or employee may not
 40 recover for the costs incurred in defense of any charge, count, or portion of the indictment or
 41 information that is:

42 (a) quashed or dismissed upon application or motion of the prosecuting attorney; or

43 (b) for a traffic violation classified as an infraction or a traffic violation classified as a class

44 C misdemeanor, unless it is h :

44a (i) h for a violation of Title 41, Chapter 6, Article 16, Equipment, or a local

45 ordinance similar to that article h ;

45a (ii) **AN OFFICER OR EMPLOYEE RESPONDING TO A DISPATCHED CALL FROM A PERSON**

45b **AUTHORIZED BY THE EMPLOYER; OR**

45c (iii) **A PEACE OFFICER RESPONDING TO WHAT THE OFFICER REASONABLY BELIEVES IS A**

45d **CRIME BEING COMMITTED OR WHO IS ACTING WITHIN THE SCOPE OF HIS AUTHORITY UNDER**

45e **TITLE 53, CHAPTER 13, PEACE OFFICER CLASSIFICATIONS h .**

Legislative Review Note

as of 11-22-99 7:49 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel