

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

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Chad E. Bennion**

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

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

AMENDS:

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

*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 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

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 for a violation of Title 41, Chapter 6, Article 16, Equipment, or a local  
45 ordinance similar to that article.

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**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**