

**SUBSTITUTE FOR
SENATE BILL NO. 1244**

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts,"

by amending section 8 (MCL 691.1408), as amended by 2002 PA 400.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) ~~Whenever~~**If** a claim is made or a civil action is
2 commenced against an officer, employee, or volunteer of a
3 governmental agency for injuries to persons or property caused by
4 negligence of the officer, employee, or volunteer while in the
5 course of employment with or ~~actions~~**acting** on behalf of the
6 governmental agency and while acting within the scope of his or her
7 authority, the governmental agency may pay for, engage, or furnish
8 the services of an attorney to advise the officer, employee, or
9 volunteer as to the claim and to appear for and represent the
10 officer, employee, or volunteer in the action. The governmental
11 agency may compromise, settle, and pay the claim before or after
12 the commencement of a civil action. ~~Whenever~~**If** a judgment for
13 damages is awarded against an officer, employee, or volunteer of a
14 governmental agency as a result of a civil action for personal
15 injuries or property damage caused by the officer, employee, or
16 volunteer while in the course of employment and while acting within
17 the scope of his or her authority, the governmental agency may
18 indemnify the officer, employee, or volunteer or pay, settle, or
19 compromise the judgment.

20 (2) ~~When~~**If** a criminal action is commenced against an officer
21 or employee of a governmental agency based ~~upon~~**on** the conduct of
22 the officer or employee in the course of employment, if the
23 employee or officer had a reasonable basis for believing that he or
24 she was acting within the scope of his or her authority at the time
25 of the alleged conduct, the governmental agency may pay for,
26 engage, or furnish the services of an attorney to advise the
27 officer or employee as to the action, and to appear for and
28 represent the officer or employee in the action. An officer or

1 employee who has incurred legal expenses after December 31, 1975
2 for conduct ~~prescribed~~**described** in this subsection may obtain
3 reimbursement for those expenses under this subsection.

4 (3) A governmental agency may pay for, engage, or furnish the
5 services of an attorney to advise an officer, employee, or
6 volunteer of the governmental agency, and to appear for and
7 represent the officer, employee, or volunteer, in connection with
8 civil or criminal litigation or an investigation or proceeding if
9 the litigation, investigation, or proceeding involves the officer,
10 employee, or volunteer as a result of his or her conduct in the
11 course of employment with or actions taken on behalf of the
12 governmental agency, subject to the following limitations:

13 (a) If a claim is made or a civil action is commenced against
14 the officer, employee, or volunteer, subsection (1) of this section
15 governs the governmental agency's authority to pay for, engage, or
16 furnish the services of an attorney to advise the officer,
17 employee, or volunteer as to the claim and to appear for and
18 represent the officer, employee, or volunteer in the action.

19 (b) If a criminal action is commenced against the officer,
20 employee, or volunteer, subsection (2) of this section governs the
21 governmental agency's authority to pay for, engage, or furnish the
22 services of an attorney to advise the officer, employee, or
23 volunteer as to the action, and to appear for and represent the
24 officer, employee, or volunteer in the action.

25 (4) ~~(3)~~—This section does not impose liability on a
26 governmental agency.

27 (5) This section is not intended to affect existing
28 constitutional, statutory, and common law powers and duties of the
29 Attorney General.

1 Enacting section 1. This amendatory act applies retroactively.