

House File 12
County Government
Merritt, Chairman
Briles
Gallagher

Reprinted
12

COUNTY GOVERNMENT - *Pass per H-335 3/26*

HOUSE FILE
By HANSEN

House File 12
Miller of Calhoun,
Chairman
West
Hinkhouse

Passed House, Date 4-17-75 (1164) Passed Senate, Date _____
Vote: Ayes 90 Nays 2 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the indemnification of county officers
2 and employees.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section three hundred thirty-two point thirty-
2 six (332.36), Code 1975, is amended to read as follows:

3 332.36 COUNTY INDEMNIFICATION FUND IN STATE TREASURY.
4 There is created in the office of the treasurer of state a
5 fund to be known as "the county indemnification fund" to be
6 used to indemnify and pay on behalf of any elected county
7 ~~treasurer, recorder, auditor, attorney, clerk of court,~~
8 ~~sheriff, and engineer on matters relating to road and bridge~~
9 ~~design only,~~ officer and any deputies, assistants or employees
10 ~~in such offices~~ of the county, all sums that such officers,
11 deputies, assistants or employees are legally obligated to
12 pay because of their negligent acts, errors or omissions in
13 the performance of their official duties, except that the
14 first five hundred dollars of each such claim shall not be
15 paid from this fund.

16 Sec. 2. Section three hundred thirty-two point forty
17 (332.40), Code 1975, is amended to read as follows:

18 332.40 CLAIMS PAID. Any claim for any negligent act,
19 error, or omission of ~~a county treasurer, recorder, auditor,~~
20 ~~attorney, clerk of court, sheriff, engineer on matters relating~~
21 ~~to bridge or road design only,~~ any elected county officer
22 or any deputy, assistant or employee ~~in such offices~~ of the
23 county relating to such matters, committed after July 1, 1973
24 1975, shall be processed and paid from such fund in accordance
25 with the provisions of chapter 25A, except that any payment
26 of a claim, except a final judgment, in excess of fifteen
27 hundred dollars shall have the unanimous approval of all
28 members of the state appeal board, the attorney general, and
29 the district court of Polk county.

30 Sec. 3. Section three hundred thirty-two point forty-one
31 (332.41), Code 1975, is amended to read as follows:

32 332.41 INSURANCE DEDUCTIBLE. If a final judgment is
33 obtained against ~~the county treasurer, recorder, auditor,~~
34 ~~attorney, clerk of court, sheriff, or engineer in matters~~
35 ~~relating to bridge or road design only,~~ any elected county

1 ~~officer~~ or any deputies, assistants, or employees ~~in such~~
 2 ~~offices indemnified by such fund~~ of the county for an act
 3 committed subsequent to July 1, ~~1973~~ 1975, which is payable
 4 from the county indemnification fund, the county attorney
 5 shall ascertain if any insurance policy exists indemnifying
 6 such persons against such judgment or any part thereof. If
 7 no insurance exists, or if the judgment exceeds the limits
 8 of such insurance the county attorney shall submit a claim
 9 to the state comptroller against the county indemnification
 10 fund on behalf of the plaintiff to the action for the amount
 11 of the judgment exceeding the amount recoverable by reason
 12 of such insurance. The state comptroller shall promptly issue
 13 a warrant payable to the plaintiff for such amount, and the
 14 treasurer of state shall pay the warrant. Such payment shall
 15 forever discharge such persons from any and all liability
 16 therefor.

17 Sec. 4. Section three hundred thirty-two point forty-two
 18 (332.42), Code 1975, is repealed.

19 EXPLANATION

20 This bill extends the coverage of the county indemnifi-
 21 cation fund for any negligent act, error or omission to all
 22 county officers, deputies, assistants, or other employees
 23 of the county. Under present law, the indemnification coverage
 24 of the county indemnification fund is limited to the county
 25 treasurer, auditor, attorney, clerk of county, sheriff,
 26 engineer on matters relating to bridge or road design only,
 27 and their deputies, assistants and employees. Other employees
 28 of the county are to be covered by insurance purchased by
 29 the county or by the payment of claims from the general fund
 30 of the county.

31 The bill also provides for the repeal of a provision autho-
 32 rizing the board of supervisors to purchase indemnification
 33 insurance for those employees not covered under the present
 34 county indemnification fund.

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H-3351

1 Amend House File 12 as follows:

2 1. Page 1, line 12, by striking the words
3 "negligent acts," and inserting in lieu thereof the
4 words "negligent-acts,".

5 2. Page 1, by inserting after line 15 the following:
6 "Sec. _____. Section three hundred thirty-two point
7 thirty-eight (332.38), Code 1975, is amended to read
8 as follows:

9 332.38 TAX TO SUPPORT FUND. If the balance in
10 the fund on September 30 of any year is less than
11 ~~three~~ six hundred thousand dollars, the treasurer
12 of state shall notify the board of supervisors of
13 each county to again levy for that year one half cent
14 per thousand dollars of assessed value to be collected
15 with other taxes in the next year."

16 3. Page 1, line 18, by striking the words
17 "negligent act," and inserting in lieu thereof the
18 words "negligent-act,".

19 4. Page 1, line 19, by striking the word "error,"
20 and inserting in lieu thereof the word "error,".

21 5. Page 1, line 24, by inserting after the word
22 "processed" the words "in accordance with provisions
23 of chapter six hundred thirteen A (613A) of the Code".

24 6. Page 1, lines 24 and 25, by striking the words
25 "in accordance with the provisions of chapter 25A"
26 and inserting in lieu thereof the words "~~in-accordance~~
27 ~~with-the-provisions-of-chapter-25A~~".

28 7. Page 2, line 18, by striking the word "repealed"
29 and inserting in lieu thereof the following:

30 "amended to read as follows:

31 332.42 INSURANCE COVERAGE ON OTHER EMPLOYEES.
32 The board of supervisors may purchase insurance
33 insuring any ~~other~~ county officers and their employees
34 in the performance of their official duties ~~not~~
35 ~~specified-in-section-332-36,~~ against personal liability
36 as a result of negligent acts, ~~errors-or-emissions~~.
37 The premiums for the insurance shall be paid from
38 the general fund of the county. If the liability
39 of any county officer or his employees in the
40 performance of their official duties, ~~not-specified~~
41 ~~in-section-332-36,~~ is not fully indemnified by
42 insurance, the board of supervisors shall pay any
43 such loss, for which the county officer or his
44 employees shall be found liable, from the general
45 fund of the county. Any county board of supervisors
46 may compromise and settle any such claim."

H-3351 FILED - *Adopted & amended by 3585*
MARCH 26, 1975 *4/17 (1164)*

BY COMMITTEE ON COUNTY GOVERNMENT
HUTCHINS of Guthrie, Chairman

H-3585

- 1 Amend the Committee on County Government
- 2 amendment H-3351 to House File 12 as follows:
- 3 Line 31, by striking the word "OTHER".

H-3585 FILED, ADOPTED BY
UNANIMOUS CONSENT (1163)
APRIL 17, 1975

BY MILLER of Calhoun

Sen. County Gov. 4/28, Pass 5/21

HOUSE FILE 12

By HANSEN

(As Amended and Passed by the House)

Passed House, Date 4-17-75 (1164) Passed Senate, Date 6-12-75 (1969)

Vote: Ayes 90 Nays 2 Vote: Ayes 47 Nays 0

Approved 7-14-75

A BILL FOR

1 An Act relating to the indemnification of county officers
2 and employees.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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1 Section 1. Section three hundred thirty-two point thirty-
2 six (332.36), Code 1975, is amended to read as follows:

3 332.36 COUNTY INDEMNIFICATION FUND IN STATE TREASURY.

4 There is created in the office of the treasurer of state a
5 fund to be known as "the county indemnification fund" to be
6 used to indemnify and pay on behalf of any elected county
7 treasurer, recorder, auditor, attorney, clerk of court,
8 sheriff, and engineer on matters relating to road and bridge
9 design only, officer and any deputies, assistants or employees
10 in such offices of the county, all sums that such officers,
11 deputies, assistants or employees are legally obligated to
12 pay because of their negligent acts, errors or omissions in
13 the performance of their official duties, except that the
14 first five hundred dollars of each such claim shall not be
15 paid from this fund.

16 Sec. 2. Section three hundred thirty-two point thirty-
17 eight (332.38), Code 1975, is amended to read as follows:

18 332.38 TAX TO SUPPORT FUND. If the balance in the
19 fund on September 30 of any year is less than three six
20 hundred thousand dollars, the treasurer of state shall
21 notify the board of supervisors of each county to again
22 levy for that year one half cent per thousand dollars of
23 assessed value to be collected with other taxes in the
24 next year.

25 Sec. 3. Section three hundred thirty-two point forty
26 (332.40), Code 1975, is amended to read as follows:

27 332.40 CLAIMS PAID. Any claim for any negligent act,
28 error or omission of a county treasurer, recorder, auditor,
29 attorney, clerk of court, sheriff, engineer on matters relating
30 to bridge or road design only, any elected county officer
31 or any deputy, assistant or employee in such offices of the
32 county relating to such matters, committed after July 1, 1973
33 1975, shall be processed in accordance with provisions
34 of chapter six hundred thirteen A (613A) of the Code
35 and paid from such fund in accordance

1 ~~with-the-provisions-of-chapter-25A~~, except that any payment
2 of a claim, except a final judgment, in excess of fifteen
3 hundred dollars shall have the unanimous approval of all
4 members of the state appeal board, the attorney general, and
5 the district court of Polk county.

6 Sec. 4. Section three hundred thirty-two point forty-one
7 (332.41), Code 1975, is amended to read as follows:

8 332.41 INSURANCE DEDUCTIBLE. If a final judgment is
9 obtained against ~~the-county-treasurer,-recorder,-auditor,~~
10 ~~attorney,-clerk-of-court,-sheriff,-or-engineer-in-matters~~
11 ~~relating-to-bridge-or-road-design-only,~~ any elected county
12 officer or any deputies, assistants, or employees ~~in-such~~
13 ~~offices-indemnified-by-such-fund~~ of the county for an act
14 committed subsequent to July 1, ~~1973~~ 1975, which is payable
15 from the county indemnification fund, the county attorney
16 shall ascertain if any insurance policy exists indemnifying
17 such persons against such judgment or any part thereof. If
18 no insurance exists, or if the judgment exceeds the limits
19 of such insurance the county attorney shall submit a claim
20 to the state comptroller against the county indemnification
21 fund on behalf of the plaintiff to the action for the amount
22 of the judgment exceeding the amount recoverable by reason
23 of such insurance. The state comptroller shall promptly issue
24 a warrant payable to the plaintiff for such amount, and the
25 treasurer of state shall pay the warrant. Such payment shall
26 forever discharge such persons from any and all liability
27 therefor.

28 Sec. 5. Section three hundred thirty-two point forty-two
29 (332.42), Code 1975, is amended to read as follows:

30 332.42 INSURANCE COVERAGE ON EMPLOYEES. The board of
31 supervisors may purchase insurance insuring any other
32 county officers and their employees in the performance of
33 their official duties not-specified-in-section-332.367
34 against personal liability as a result of negligent acts,
35 errors-or-emissions. The premiums for the insurance shall

1 be paid from the general fund of the county. If the
 2 liability of any county officer or his employees in the
 3 performance of their official duties, not specified in
 4 section-333.367 is not fully indemnified by insurance,
 5 the board of supervisors shall pay any such loss, for which
 6 the county officer or his employees shall be found liable,
 7 from the general fund of the county. Any county board of
 8 supervisors may compromise and settle any such claim.

EXPLANATION

9
 10 This bill extends the coverage of the county indemnifi-
 11 cation fund for any negligent act, error or omission to all
 12 county officers, deputies, assistants, or other employees
 13 of the county. Under present law, the indemnification coverage
 14 of the county indemnification fund is limited to the county
 15 treasurer, auditor, attorney, clerk of county, sheriff,
 16 engineer on matters relating to bridge or road design only,
 17 and their deputies, assistants and employees. Other employees
 18 of the county are to be covered by insurance purchased by
 19 the county or by the payment of claims from the general fund
 20 of the county.

21 The bill also provides for the repeal of a provision autho-
 22 rizing the board of supervisors to purchase indemnification
 23 insurance for those employees not covered under the present
 24 county indemnification fund.

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HOUSE FILE 12

AN ACT

RELATING TO THE INDEMNIFICATION OF COUNTY OFFICERS AND EMPLOYEES.

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

Section 1. Section three hundred thirty-two point thirty-six (332.36), Code 1975, is amended to read as follows:

332.36 COUNTY INDEMNIFICATION FUND IN STATE TREASURY.

There is created in the office of the treasurer of state a fund to be known as "the county indemnification fund" to be used to indemnify and pay on behalf of any elected county ~~treasurer, recorder, auditor, attorney, clerk-of-court, sheriff, and engineer on matters relating to road and bridge design only,~~ officer and any deputies, assistants or employees in such offices of the county, all sums that such officers, deputies, assistants or employees are legally obligated to pay because of their ~~negligent acts,~~ errors or omissions in the performance of their official duties, except that the first five hundred dollars of each such claim shall not be paid from this fund.

Sec. 2. Section three hundred thirty-two point thirty-eight (332.38), Code 1975, is amended to read as follows:

332.38 TAX TO SUPPORT FUND. If the balance in the fund on September 30 of any year is less than three six hundred thousand dollars, the treasurer of state shall notify the board of supervisors of each county to again levy for that year one half cent per thousand dollars of assessed value to be collected with other taxes in the next year.

Sec. 3. Section three hundred thirty-two point forty (332.40), Code 1975, is amended to read as follows:

332.40 CLAIMS PAID. Any claim for any ~~negligent act,~~ error, or omission of a ~~county treasurer, recorder, auditor, attorney, clerk-of-court, sheriff, engineer on matters relating to bridge or road design only,~~ any elected county officer

or any deputy, assistant or employee in such offices of the county relating to such matters, committed after July 1, ~~1973~~ 1975, shall be processed in accordance with provisions of chapter six hundred thirteen A (613A) of the Code and paid from such fund ~~in accordance with the provisions of chapter 25A,~~ except that any payment of a claim, except a final judgment, in excess of fifteen hundred dollars shall have the unanimous approval of all members of the state appeal board, the attorney general, and the district court of Polk county.

Sec. 4. Section three hundred thirty-two point forty-one (332.41), Code 1975, is amended to read as follows:

332.41 INSURANCE DEDUCTIBLE. If a final judgment is obtained against the ~~county treasurer, recorder, auditor, attorney, clerk-of-court, sheriff, or engineer in matters relating to bridge or road design only,~~ any elected county officer or any deputies, assistants, or employees in such offices indemnified by such fund of the county for an act committed subsequent to July 1, ~~1973~~ 1975, which is payable from the county indemnification fund, the county attorney shall ascertain if any insurance policy exists indemnifying such persons against such judgment or any part thereof. If no insurance exists, or if the judgment exceeds the limits of such insurance the county attorney shall submit a claim to the state comptroller against the county indemnification fund on behalf of the plaintiff to the action for the amount of the judgment exceeding the amount recoverable by reason of such insurance. The state comptroller shall promptly issue a warrant payable to the plaintiff for such amount, and the treasurer of state shall pay the warrant. Such payment shall forever discharge such persons from any and all liability therefor.

Sec. 5. Section three hundred thirty-two point forty-two (332.42), Code 1975, is amended to read as follows:

332.42 INSURANCE COVERAGE ON EMPLOYEES. The board of supervisors may purchase insurance insuring any ~~other~~ county officers and their employees in the performance of their

official duties ~~not-specified-in-section-332.36~~, against personal liability as a result of negligent acts, ~~errors or emissions~~. The premiums for the insurance shall be paid from the general fund of the county. If the liability of any county officer or his employees in the performance of their official duties, ~~not-specified-in-section-332.36~~, is not fully indemnified by insurance, the board of supervisors shall pay any such loss, for which the county officer or his employees shall be found liable, from the general fund of the county. Any county board of supervisors may compromise and settle any such claim.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 12, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved _____, 1975

ROBERT D. RAY
Governor