



Jackson County Missouri

Jackson County Courthouse
415 E. 12th Street, 2nd floor
Kansas City, Missouri
64106
(816)881-3242

Legislation Text

File #: 3256, Version: 0

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 1600. and 1604., Jackson County Code, 1984, relating to defense and indemnification of county officers and employees and enacting in lieu thereof two new sections relating to the same subject.

ORDINANCE # 3256, May 28, 2002

INTRODUCED BY Dan Tarwater, County Legislator

WHEREAS, it is in the best interests of the health, safety, and welfare of the citizens of Jackson County that chapter 16 of the Jackson County Code, relating to the defense and indemnification of county officers and employees be updated to reflect revisions in state law and to extend protection to the County's appointee to the Land Trust of Jackson County; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause. Sections 1600. and 1604. Jackson County Code, 1984, are hereby repealed, and two new sections enacted in lieu thereof, to be known as sections 1600. and 1604., to read as follows:

1600. Defense of Suits and Claims.

If a County official or employee requests the County Counselor to defend him against any claim or action against him for an injury alleged to arise out of an act or omission occurring within the scope of his duties or employment as an officer or employee of the County and such request is made in writing no later than 60 days after service of process or notification of impending claim or suit, the County shall investigate, defend, negotiate or compromise such claims, actions or judgments resulting from trial, on behalf of the officer or employee, as deemed appropriate by the County Counselor or his designee.

1600.1 Determination Within Scope of Employment.

It shall be within the discretion of the County Counselor to determine whether a claim or action arises out of an act or omission occurring within the scope of employment. The employee shall not be entitled to County defense and indemnification for willful and wanton acts or other acts outside the scope of employment.

1600.2 Persons Protected.

This Chapter applies to all County officials, whether elected or appointed, and to members of County boards or commissions, and County entities. It is also applicable to former county officials and

employees. Employees of the Circuit Court of Jackson County, Missouri, [and of] except its Juvenile Division, who are paid with County funds, are also covered by this Chapter, although not County employees. The commissioner of the Land Trust of Jackson County, appointed by the county executive pursuant to §141.720.1, RSMo, shall also enjoy the protection of this chapter. This Chapter does not apply to employees of any other public entity beyond those described above, even if that entity receives funding from the County, in whole or in part, or to private persons or firms doing business with the County. Independent contractors are excluded from the coverage of this Chapter, unless such coverage is specifically included in the contractor's contract.

1600.3 Compromise.

For purposes of this ordinance, the term "compromise" shall include settlements of claims or of judgments.

1600.4 No Obligation for Punitive or Exemplary Damages.

In no event shall this ordinance require the County to pay any part of a claim or judgment for punitive or exemplary damages.

1600.5 No Obligation to Defend Actions Brought by Fellow Employees.

In no event shall this chapter require the County to defend, or pay any part of a claim or judgment for damages arising out of, an action brought against a County official or employee by any person who was a fellow official or employee at the time the claim arose, and who had a remedy for the injury giving rise to such claim under the Workers' Compensation Law, chapter 287, RSMo.

1600.6 Written Authorization Required for Representation.

If the County Counselor does not receive, in writing, the authorization from the employee or office within the sixty (60) day period after service of process or other notification, the County Counselor's office may exercise its discretion to decline the defense and representation of said employee or officer.

1600.7 Employee Retains Outside Counsel.

If an employee or officer elects to retain outside counsel there shall be no right to reimbursement for legal expenses or right of indemnification as provided by this Chapter.

1600.8 Notice To Employee of Claim/Suit.

In the event that service of process is accepted by someone other than the named defendant but who is a County employee or agent and, therefore, legally capable of accepting service, the County Counselor shall be immediately notified of such service. Furthermore, upon receipt of notification of suit or claim the County Counselor shall give prompt notice to the individual being sued in order to apprise said individual of the pending claim or litigation. Notification to the individual shall include a brief statement from the County Counselor reciting the nature of the suit or claim, a copy of this Chapter and advisement that the employee or officer must elect to have the County Counselor defend the suit or claim and that such election must be in writing, within 60 days.

1604. Insurance.

The County or other entity whose officials and employees are protected by the Chapter may, in its discretion, expend funds to procure one or more policies of insurance to insure against all or any portion of the potential liabilities of the County and its officials, employees, or entities.

1604.1 Indemnification Limited by Insurance.

Should the County or other entity elect to procure a policy of insurance pursuant to §1604, which policy covers an action or claim brought against a County or entity official or employee within the meaning of this Chapter, that official or employee's right to indemnification under this Chapter shall be limited by the policy limits of said policy of insurance.

1604.2 Self Insurance Fund.

Damage claims not covered by existing insurance policies shall be paid out of the Self_Insurance Trust Fund.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

_____ County Counselor

I hereby certify that the attached Ordinance, Ordinance # 3256 of May 28, 2002 was duly passed on _____ June 10 _____, 2002 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____ 9 _____ Nays _____ 0 _____

Abstaining _____ 0 _____ Absent _____ 0 _____

This Ordinance is hereby transmitted to the County Executive for her signature.

_____ Date _____ Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance # 3256.

_____ Date _____ Katheryn J. Shields, County Executive