

Clerk Treasurer

From: Oskar Rey <orey@mrsc.org>
Sent: Thursday, March 4, 2021 11:11 AM
To: Clerk Treasurer
Subject: MRSC Inquiry--Defense and Indemnification of Employees and Officers

Hello Scott:

I am following up on our discussion of your MRSC inquiry:

Inquiry

What state statutes address: (1) defense and indemnification of officers or employees for actions or omissions occurring in the course of the employee's job; and (2) defense of elected officials who are the subject of recall petitions?

Response

[RCW 4.96.041](#)(1) and (2) addresses the defense and indemnification of officers and employees for acts or omissions arising from their official duties:

(1) Whenever an action or proceeding for damages is brought against any past or present officer, employee, or volunteer of a local governmental entity of this state, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee, or volunteer may request the local governmental entity to authorize the defense of the action or proceeding at the expense of the local governmental entity.

(2) If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

RCW 4.91.041(3) gives a governing body of local government entity (and its legal counsel) the option, in its discretion, to authorize payment for the defense of one of its elected officials in a recall action:

The necessary expenses of defending an elective officer of the local governmental entity in a judicial hearing to determine the sufficiency of a recall charge as provided in *RCW [29.82.023](#) shall be paid by the local governmental entity if the officer requests such defense and approval is granted by both the legislative authority of the local governmental entity and the attorney representing the local governmental entity. The expenses paid by the local governmental entity may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

Please feel free to call or email if you have any additional questions.

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