



Roland W. Burris

Comptroller
State of Illinois

April 15, 1980

TO: Agency Heads and Chief Fiscal
Officers of All State Agencies

201 State House
Springfield, Illinois 62706
217/782-6000

SUBJECT: State Indemnification Act

On December 3, 1978, the State Indemnification Act, Ill. Rev. Stat., Ch. 127, par. 1301, et seq., became effective. This Act, in essence, provides for the representation and indemnification of State employees in civil proceedings alleging the deprivation of a civil or constitutional right arising out of any act or omission occurring within the scope of the employee's state employment. The State Indemnification Act provides, among other things, that in any such proceeding, the Attorney General shall conduct the defense and "the State shall pay the court costs and litigation expense of defending such action to the extent approved by the Attorney General as reasonable..." In certain circumstances, however, the State employee may employ his own attorney to appear and defend in which event "the State shall pay the employee's court costs, litigation expenses and attorney's fees to the extent approved by the Attorney General as reasonable..."

A review of the records of the Office of the Comptroller indicates that in some cases requests for payment of attorney's fees and other litigation expenses subject to the Act are being submitted to the Comptroller without the approval of the Attorney General. This is contrary to law.

In order to ensure compliance with the Act, all contracts for attorney's fees involving proceedings subject to the Act received by the Comptroller after April 30, 1980, must be approved by the Attorney General. These contracts shall be submitted in accordance with the procedures described below:

1. The contract shall be clearly identified as being subject to the State Indemnification Act.
2. The contract shall be sent directly to the Attorney General addressed as follows:

Attorney General
State of Illinois
500 South Second Street
Springfield, Illinois 62706

Attention: Richard W. Cosby

3. The contract must set forth:
 - A. The law suit being defended.
 - B. The method of calculating compensation.
 - C. The maximum dollar amount payable.
 - D. Such other information as is required or deemed advisable.

4. It is recommended that the contract contain a provision stating that the contract, and payments under the contract, are subject to approval by the Attorney General.

Upon receipt the Attorney General will review the agreement and approve or reject its terms. Contracts that are accepted will be returned to the agency and contain a dated signature indicating approval. The 15 day filing requirement, established by Section 15 of the State Comptroller Act, shall run from the date of approval. Contracts containing terms not accepted as reasonable will be returned to the submitting agency by the Attorney General together with a written statement of the reasons for his disapproval.

All contracts for legal services (detail object 1244) filed with the Comptroller after April 30, 1980, not subject to the State Indemnification Act must contain the following statement or words of similar import in the description block of the MOD (C-23):

"This contract is not subject to the State Indemnification Act."

Attorney General approval must also be obtained on all vouchers received by the Comptroller after April 30, 1980, for legal fees subject to the State Indemnification Act. Such vouchers shall be sent directly to the Attorney General for his approval to the attention of Richard W. Cosby at the address previously cited. The Attorney General will return the vouchers to the agency with his approval indicated in the description block of the voucher, or a statement of reasons for his disapproval.

All vouchers for legal services received by the Comptroller after April 30, 1980, not subject to the State Indemnification Act must state:

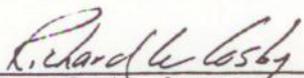
"The legal fees being paid by this voucher are not subject to the State Indemnification Act."

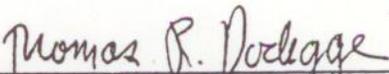
This terminology may be modified by the agency.

All vouchers for legal services subject to the State Indemnification Act received by the Comptroller after April 30, 1980, must be approved by the Attorney General.

Any voucher for legal services (detail object 1244) received by the Comptroller after April 30, 1980, not approved by the Attorney General, will be returned if it does not contain a statement attesting to the fact that it is not subject to the State Indemnification Act.

Questions concerning this letter may be addressed to Thomas R. Dodegge, Legal Counsel, Office of the Comptroller, 782-6000 or Richard W. Cosby, Office of the Attorney General.


Office of the Attorney General


Office of the Comptroller

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