Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1244 (as discharged)
Sponsor: Senator Tom Barrett
Committee: Government Operations (discharged)

CONTENT

The bill would amend the governmental immunity law to allow a governmental agency to pay for, engage, or furnish the services of an attorney to advise an officer, employee, or volunteer of the governmental agency, and to appear for and represent that person in connection with civil or criminal litigation or an investigation or proceeding if the matter involved that person as a result of his or her conduct the course of employment with or actions taken on behalf of the agency, and subject to the law's provisions governing the furnishing of those services.

Under the law, if a claim is made or a civil action is commenced against an officer, employee, or volunteer of a governmental agency for injuries to people or property caused by the officer's, employee's, or volunteer's negligence while in the course of employment and while acting within the scope of his or her authority, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer. The agency may compromise, settle, and pay the claim before or after the commencement of a civil action. If a judgment for damages is awarded against an officer, employee, or volunteer as a result of a civil action for personal injuries or property damage caused by the officer, employee, or volunteer while in the course of employment and while acting within the scope of his or her authority, the governmental agency may indemnify the officer, employee, or volunteer or pay, settle, or compromise the judgment.

If a criminal action is commenced against an officer or employee of a governmental agency based on the conduct of the officer or employee in the course of employment, if the employee or officer had a reasonable basis for believing that he or she was acting within the scope of his or her authority at the time of the alleged conduct, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer or employee as to the action, and to appear for and represent the officer or employee in the action. An officer or employee who has incurred legal expenses after December 31, 1975, for conduct prescribed in this subsection may obtain reimbursement for those expenses under this subsection.

The bill would allow a governmental agency to pay for, engage, or furnish the services of an attorney to advise an officer, employee, or volunteer of the governmental agency, and to appear for and represent the officer, employee, or volunteer, in connection with civil or criminal litigation or an investigation or proceeding if the litigation, investigation, or proceeding involved the officer, employee, or volunteer as a result of his or her conduct in the course of employment with or actions taken on behalf of the agency, subject to the following limitations:

-- If a claim were made or a civil action were commenced against the officer, employee, or volunteer, the provision above pertaining to civil claims would govern the governmental agency's authority to pay for, engage, or furnish the services of an attorney to advise the

officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer.

-- If a criminal action were commenced against the officer, employee, or volunteer, the provision above pertaining to criminal actions would govern the agency's authority to pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the action, and to appear for and represent the officer, employee, or volunteer in the action.

The bill would apply retroactively.

MCL 691.1408   Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-9-20   Fiscal Analyst: Joe Carrasco
                                                                      Elizabeth Raczkowski

floor\sb1244   Bill Analysis @ www.senate.michigan.gov/sfa
This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Page 2 of 2   Bill Analysis @ www.senate.michigan.gov/sfa   sb1244/1920