WEST VIRGINIA CODE: §29-12A-11

§29-12A-11. Defense and indemnification of employees; settlement.

(a) (1) Except as otherwise provided in this section, a political subdivision shall provide for the defense of an employee, in any state or federal court, in any civil action or proceeding to recover damages for injury, death, or loss to persons or property allegedly caused by an act or omission of the employee if the act or omission occurred or is alleged to have occurred while the employee was acting in good faith and not manifestly outside the scope of his employment or official responsibilities. Amounts expended by a political subdivision in the defense of its employees shall be from funds appropriated for this purpose or pursuant to the contractual agreement between the insurer and the political subdivision. The duty to provide for the defense of an employee specified in this subsection does not apply in a civil action or proceeding that is commenced by or on behalf of a political subdivision.

(2) Except as otherwise provided in this section, a political subdivision shall indemnify and hold harmless an employee in the amount of any judgment that is obtained against the employee in a state or federal court or as a result of a law of a foreign jurisdiction and that is for damages for injury, death, or loss to persons or property caused by an act or omission of such employee, if at the time of the act or omission the employee was acting in good faith and within the scope of his employment or official responsibilities.

(b) (1) A political subdivision may enter into a consent judgment or settlement and may secure releases from liability for itself or an employee, with respect to any claim for injury, death, or loss to persons or property caused by an act or omission of such political subdivision or employee.

(2) No action or appeal of any kind shall be brought by any person, including any employee or a taxpayer, with respect to the decision of a political subdivision pursuant to subsection (b)(1) of this section whether to enter into a consent judgment or settlement or to secure releases, or concerning the amount and circumstances of a consent judgment or settlement. Amounts expended for any settlement shall be from funds appropriated for this purpose or pursuant to the contractual agreement between the insurer and the political subdivision.

(c) If a political subdivision refuses to provide an employee with a defense in a civil action or proceeding as described in subsection (a)(1) of this section, the employee may file, in the circuit court of the county in which the political subdivision is located, an action seeking a determination as to the appropriateness of the refusal of the political subdivision to provide him or her with a defense under that subsection.

WV Legislature