

attorneys' fees. These expenses shall be paid with the approval of the County Attorney by the agency, board, commission, or department by which the officer or employee was employed at the time the act or omission complained of in the action occurred. This section is not applicable if the expenses are reimbursed to the officer or employee pursuant to the provisions of [§ 3-75 of this article] § 3-809 OF THIS SUBTITLE. The decision of the County Attorney not to defend an officer or employee is not admissible as evidence in any legal action or special proceeding and no reference [thereto] TO THE DECISION may be made in any trial or hearing. In any action or proceeding against an officer or employee that results in a final judgment or other disposition, the court or jury shall return a special verdict in the form of written findings which determine (1) if the officer or employee was acting within the scope of [his] THE OFFICER'S OR EMPLOYEE'S employment; (2) if the alleged act or omission by the officer or employee was malicious or grossly negligent; (3) if the defense of immunity is available to the officer or employee.

[3-72.] 3-806. Same; confidentiality.

Any and all information obtained by the County Attorney by virtue of the provisions of [§§ 3-69 through 3-76] §§ 3-803 THROUGH 3-810 OF THIS SUBTITLE, shall be considered confidential and shall not be admissible as evidence in any legal action or special proceeding, and no reference [thereto] TO THIS INFORMATION may be made in any trial or hearing.

[3-73.] 3-807. Same; special counsel.

(A) The County Attorney may employ special counsel whose compensation shall be fixed by the County Attorney and approved by the County Commissioners, if [he] THE COUNTY ATTORNEY determines that it is impracticable or uneconomical for such legal service to be rendered by [him] THE COUNTY ATTORNEY or one of [his] THE COUNTY ATTORNEYS assistants.

(B) The compensation for special counsel shall be paid out of the funds appropriated for the administration of the agency, board, commission, or department employing the officers and employees defended.

[3-74.] 3-808. Same; representation of employee.

The County Attorney, prior to the defense of an officer or employee, shall require the officer or employee to enter into an agreement which provides, among other things:

(1) The County Attorney, if [he] THE COUNTY ATTORNEY determines it appropriate, may require the officer or employee to reimburse the County for all expenses, including court costs and reasonable attorneys' fees, if it is judicially determined that the injuries complained of did not arise out of an act or omission of the officer or employee occurring during the performance of [his] THE OFFICER'S OR EMPLOYEE'S duties and within the scope of [his] THE OFFICER'S OR EMPLOYEE'S employment or that the act or omission of the officer or employee was malicious or grossly negligent, and the defense of immunity as to the officer or employee is not available; but such reimbursement may not be required if the information provided to