§ 645. Limited liability. 1. As used in this section, the term "employee" shall mean the members of the board, president, officers, employees, or a former employee, his or her estate or judicially appointed personal representative.

2. Neither the members of the board nor any officers or employee of the trust acting on behalf thereof, while acting within the scope of such person's authority, shall be subject to any liability resulting from carrying out any of the powers expressly given in this article.

3. At the request of the employee, and upon compliance by the employee with the provisions of this section, the trust shall provide for the defense of an employee in any civil action or proceeding in any state or federal court, arising out of any alleged act or omission which the trust finds occurred while the employee was acting within the scope of his or her public employment and in the discharge of his or her public duties and was not in violation of any rule or regulation of the trust at the time the alleged act or omission occurred. This duty to provide for a defense and indemnification shall not arise where such civil action or proceeding is brought by or on behalf of the trust against the employee.

4. The trust shall indemnify and hold harmless its employees in the amount of any civil judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim approved by the trust provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his or her public employment and in the discharge of his or her public duties and was not in violation of any rule or regulation of the trust at the time the alleged damages were sustained. The duty to indemnify and hold harmless prescribed by this section shall not arise where the injury or damage resulted from an intentional wrongdoing, or recklessness on the part of the employee. Nothing in this section shall authorize the trust to indemnify or hold harmless an employee with respect to punitive or exemplary damages, fines or penalties.

5. The duty to defend and indemnify and hold harmless prescribed by this section shall be conditioned upon (a) delivery by the employee to the president or general counsel of the trust at the office of the trust of the original or a copy of any summons, complaint, claim, process, notice, demand or pleading within ten days after the employee is served with such document, and (b) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the trust based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the trust provide for his or her defense pursuant to this section. In the event that the trust shall assume an employee's defense and thereafter the employee fails or refuses to cooperate in the formation or presentation of his or her defense, the court shall permit the trust to withdraw its representation ten days after giving written notice to the employee of its intention to discontinue such representation.

6. In the event that the act or omission upon which the court proceeding against the employee is based was or is also the basis of a disciplinary proceeding by the trust against the employee, representation and indemnification by the trust, as set forth in this section, may be withheld (a) until such disciplinary proceeding has been resolved, and (b) unless the resolution of the disciplinary proceeding exonerated the employee as to such act or omission.

7. Subject to the conditions set forth in this section, such employee shall be entitled to representation by the general counsel of the trust or by any attorney or attorneys designated by the general counsel, provided, however, that the employee shall be entitled to be represented by private counsel of his or her choice in any civil action or proceeding whenever the trust determines that representation would be inappropriate, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of the employee's choice. The general counsel of the trust shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. Provided, however, that

the trust may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the trust to such private counsel from time to time during the pendency of a civil action or proceeding.

8. Any dispute with respect to representation of multiple employees by a single counsel or the reasonableness of attorneys' fees or the amount of litigation expenses shall be resolved by the court upon motion or by way of a special proceeding.

9. The benefits of this section shall inure only to employees as defined in this section and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

10. The provisions of this section shall not be construed in any way to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

11. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, member, officer or employee of the trust, or any right to defense or indemnification provided for any member, officer or employee by, in accordance with, or by reason of, any other provision of state, federal or local law or common law.

12. Every action or proceeding instituted pursuant to the provisions of this section shall be commenced pursuant to section six hundred forty-one of this article, and subject to any condition or limitation set forth in such section.

13. The provisions of this section shall apply to the actions and proceedings set forth herein notwithstanding any inconsistent provisions of state or local law.