

1 HB64
2 154756-2
3 By Representatives Jones, Henry, Baker, Greer, Wallace,
4 Baughn, Buttram, Chesteen, Patterson, Farley, Rich, Brown,
5 Hurst, Tuggle, Beckman, Millican, Merrill, Sanderford, Johnson
6 (W), Roberts, Williams (D), Moore (B), Johnson (K), Hammon,
7 Hubbard (M), McClendon, Nordgren, Butler, Standridge, Shiver,
8 Shedd, Collins, McClurkin, Drake, Treadaway, Sessions, Faust,
9 Hill, McMillan, Williams (P), Ball, Carns, Williams (J),
10 Davis, McCutcheon and Long
11 RFD: Judiciary
12 First Read: 14-JAN-14
13 PFD: 12/18/2013

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8 SYNOPSIS: The Constitution of Alabama of 1901 affords
9 absolute immunity to the state itself and to state
10 officials and employees acting in their official
11 capacity. Qualified immunity is afforded to state
12 officers, agents, and employees for liability
13 associated with certain discretionary duties.

14 This bill would specify in statute that an
15 officer, employee, or agent of the state, including
16 any employee of the State Board of Education or any
17 local board of education, in his or her official
18 capacity is immune from liability in any suit
19 pursuant to the Constitution of Alabama of 1901.

20 This bill would also specify in statute that
21 an officer, employee, or agent of the state,
22 including any employee of the State Board of
23 Education or any local board of education, is not
24 personally liable for any act that is incident to
25 or within the scope of the duties of the person's
26 position of employment with, or relationship to,
27 the state and that involves the exercise of

1 judgment or discretion on the part of the officer,
2 employee, or agent, unless he or she acts
3 willfully, maliciously, fraudulently, in bad faith,
4 or beyond his or her authority.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to sovereign immunity, to specify in
11 statute that an officer, employee, or agent of the state,
12 including a certified or noncertified employee of the State
13 Board of Education or any local board of education, in his or
14 her official capacity is immune from liability in any suit
15 pursuant to the Constitution of Alabama of 1901; and to
16 specify that these persons are not personally liable for any
17 act that is incident to or within the scope of the duties of
18 their position of employment with, or relationship to, the
19 state and that involve the exercise of judgment or discretion,
20 unless he or she acts willfully, maliciously, fraudulently, in
21 bad faith, or beyond his or her authority.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) An officer, employee, or agent of the
24 state acting in his or her official capacity is immune from
25 liability in any suit pursuant to Article I, Section 14, of
26 the Constitution of Alabama of 1901.

1 (b) An officer, employee, or agent of the state is
2 not personally liable for any act that is incident to or
3 within the scope of the duties of the person's position of
4 employment with, or relationship to, the state and that
5 involves the exercise of judgment or discretion on the part of
6 the officer, employee, or agent, unless he or she acts
7 willfully, maliciously, fraudulently, in bad faith, or beyond
8 his or her authority.

9 (c) This act shall not be construed to eliminate,
10 alter, or otherwise modify any other immunity regarding
11 officers, employees, or agents of the state established under
12 the constitution and laws of this state.

13 Section 2. (a) For the purposes of this section,
14 "education employee" means a certified or noncertified
15 employee of the State Board of Education or any local board of
16 education and an employee of the Alabama Institute for Deaf
17 and Blind or the Alabama School of Mathematics and Science.

18 (b) An education employee acting in his or her
19 official capacity is immune from liability in any suit
20 pursuant to Article I, Section 14, of the Constitution of
21 Alabama of 1901.

22 (c) An education employee is not personally liable
23 for any act that is incident to or within the scope of the
24 duties of the person's employment and that involves the
25 exercise of judgment or discretion on the part of the
26 employee, unless he or she acts willfully, maliciously,
27 fraudulently, in bad faith, or beyond his or her authority.

1 (d) This act shall not be construed to eliminate,
2 alter, or otherwise modify any other immunity regarding
3 education employees established under the constitution and
4 laws of this state.

5 Section 3. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.