

1 SB55  
2 154756-2  
3 By Senator Holley  
4 RFD: Governmental Affairs  
5 First Read: 14-JAN-14  
6 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.

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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.