HB615
134520-1
By Representative Wood
RFD: State Government
First Read: 03-APR-12
SYNOPSIS: Under case law since 1976, the Alabama Supreme Court had ruled that local agencies of the state could be sued in contract. In 2009, the Alabama Supreme Court overruled its prior ruling, holding that local agencies of state government are immune from suit. A suit filed by a party in circuit or district court prior to the Alabama Supreme Court's ruling in 2009, on a contract claim would generally be subject to dismissal by the court. However, because the time period for filing a claim with the State Board of Adjustment may have already passed, the party may not have any forum to have its claim heard on the merits.

This bill would extend the time for filing a claim based on contract with the State Board of Adjustment against local agencies of state government if the claim was originally filed in circuit or district court prior to the Alabama Supreme Court ruling discussed above.
A BILL

TO BE ENTITLED

AN ACT

To amend Section 41-9-65 of the Code of Alabama 1975, relating to the time for presenting claims before the State Board of Adjustment, to extend the time for presenting claims against local agencies of state government under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-9-65 of the Code of Alabama 1975, is amended to read as follows:

"§41-9-65.

(a) Unless otherwise provided in this section, all claims must be presented to the Board of Adjustment within one year after the cause of action accrues. All claims upon contracts against local agencies of state government which were originally filed in circuit or district court prior to the Alabama Supreme Court overruling prior case law authorizing the suits in Ex Parte Hale County Board of Education, 14 So. 3d 844 (Ala. 2009), must be presented within one year after the effective date of the act adding this sentence.

(b) Claims for injury to the person resulting in death must be presented to the Board of Adjustment within two years after the cause of action accrues, unless the same is first carried into the courts of the state, in which event the
statute of limitations shall not begin to run until the date on which a final judgment in the same, holding the claimant not entitled to relief through the courts of the state, is entered.

"(c) In the matter of escheats to the State of Alabama, any such claim must be filed with the Board of Adjustment within 10 years from the time of the escheat to the State of Alabama; except, that the claims of minors may be considered by the Board of Adjustment if the claims are filed within three years after the minor has reached the age of 19 years.

"(d) The Board of Adjustment is prohibited from hearing or considering any claim not filed within the time specified and the limitations provided in this section shall apply both to claims which have already accrued and to those which accrue after July 10, 1943.

"(e) If a claim filed by a county or a department, agency, board, commission, public corporation, or instrumentality of a county on or after October 1, 2009, is based upon a state agency's denial of a request for reimbursement of expenses required by law where the agency's denial is based solely on grounds of failure to comply with an agency deadline, the board shall not uphold the agency's denial on those grounds unless all of the following apply:

"(1) The agency has promulgated written procedures for claiming reimbursement, which include timelines, which procedures have been approved by the agency head.
"(2) A copy of the agency's current written procedures has been distributed to all counties prior to the time the county or a department, agency, board, commission, public corporation, or instrumentality of the county incurred the expenses for which reimbursement is sought.

"(3) The agency has properly applied its procedures in denying the claim for reimbursement of expenses submitted by the county or a department, agency, board, commission, public corporation, or instrumentality of the county.

"(4) The agency provided written notice of the denial to the county or a department, agency, board, commission, public corporation, or instrumentality of the county within 14 days of its decision, which notice included instructions for appealing the decision to the Board of Adjustment.

"(f) The Board of Adjustment's one-year statute of limitations, as set out in subsection (a), shall apply to claims filed therein pursuant to subsection (e) and, for statute of limitations purposes, the Board of Adjustment claim shall be deemed to have accrued on the date the claim for reimbursement was denied by the state agency. The Board of Adjustment shall uphold the agency's denial of reimbursement based solely on the failure to file timely if the reimbursement request is submitted to the agency more than 12 months after the November 30 following the close of the fiscal year in which the expense was incurred."
Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.