SB55
154756-2
By Senator Holley
RFD: Governmental Affairs
First Read: 14-JAN-14
PFD: 12/18/2013
SYNOPSIS: The Constitution of Alabama of 1901 affords absolute immunity to the state itself and to state officials and employees acting in their official capacity. Qualified immunity is afforded to state officers, agents, and employees for liability associated with certain discretionary duties.

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

This bill would also specify in statute that an officer, employee, or agent of the state, including any employee of the State Board of Education or any local board of education, is not personally liable for any act that is incident to or within the scope of the duties of the person's position of employment with, or relationship to, the state and that involves the exercise of
judgment or discretion on the part of the officer, employee, or agent, unless he or she acts willfully, maliciously, fraudulently, in bad faith, or beyond his or her authority.

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) An officer, employee, or agent of the state acting in his or her official capacity is immune from liability in any suit pursuant to Article I, Section 14, of the Constitution of Alabama of 1901.
(b) An officer, employee, or agent of the state is not personally liable for any act that is incident to or within the scope of the duties of the person's position of employment with, or relationship to, the state and that involves the exercise of judgment or discretion on the part of the officer, employee, or agent, unless he or she acts willfully, maliciously, fraudulently, in bad faith, or beyond his or her authority.

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

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

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

(c) An education employee is not personally liable for any act that is incident to or within the scope of the duties of the person's employment and that involves the exercise of judgment or discretion on the part of the employee, unless he or she acts willfully, maliciously, fraudulently, in bad faith, or beyond his or her authority.
(d) This act shall not be construed to eliminate, alter, or otherwise modify any other immunity regarding education employees established under the constitution and laws of this state.

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