§ 41-9-60. Purpose of division.

The purpose of this division is to provide a method of payment by the State of Alabama or any of its agencies, commissions, boards, institutions or departments to persons for injuries to person or property or for death occasioned by the State of Alabama or any of its agencies, commissions, boards, institutions or departments where in law, justice or good morals the same should be paid.

§ 41-9-61. Creation; composition; officers; Attorney General to attend meetings of board, etc.; quarters, etc.; quorum; board may take views, conduct interviews, etc.; board to supervise, etc., preparation, etc., of records of cases.

There shall be a Board of Adjustment to be composed of the Director of Finance, the State Treasurer, the Secretary of State and the State Auditor. The chairman of said board shall be selected by the board from its members. The Secretary of State shall also be the secretary of said board and shall perform all the duties, powers and functions required of the secretary by the board. The Attorney General shall attend the meetings of the board and represent the State of Alabama in all proceedings before the board.

The Board of Adjustment shall be furnished with necessary quarters, stationery and postage in the same manner as the same are furnished to other state officers, agencies, commissions, boards, institutions or departments.

Any three of said board members shall constitute a quorum to transact business and discharge the functions of said board; provided, however, that in case there is an equal division of opinion on any decision or claim that the board is authorized to hear, the chairman of the board shall determine the decision in such instance.

The Board of Adjustment shall have the power, if, in its opinion the situation warrants it, to visit any scene of any injury or accident and make a view thereof and take said facts in consideration and personally interview such persons as may have knowledge or information as to the subject matter of the claim under consideration by said board and may take such views and information into consideration in reaching its conclusion and making awards on claims.

The Board of Adjustment shall supervise and direct the secretary of the board as to making a record as provided in Section 41-9-71 and shall aid and direct said secretary in making up a report of all cases heard and determined by said board, stating the substance of the claim and the disposition made of the case, and shall cause said cases to be classified under said board's direction in accordance with the types and kinds of cases coming before said board.

§ 41-9-62. Claims within jurisdiction of board generally; employees of municipalities, counties, etc., not within jurisdiction of board, etc.
(a) The Board of Adjustment shall have the power and jurisdiction and it shall be its duty to hear and consider:

(1) All claims for damages to the person or property growing out of any injury done to either the person or property by the State of Alabama or any of its agencies, commissions, boards, institutions or departments, with the exception of claims by employees of the state for personal injury or death arising out of the course of employment with the State of Alabama, where such employees are covered by an employee injury compensation program;

(2) All claims for personal injuries to or the death of any convict, and all claims for personal injuries to or the death of any employee of a city or county board of education, or college or university, arising out of the course of the employee's employment and where the employee is not covered by a worker's compensation program;

(3) All claims of members of the public at large or of officers of the law who are not employees of the state arising out of injuries sustained while attempting to recapture escaped convicts, which convicts have escaped after they have been placed in the actual custody of the Department of Corrections;

(4) All claims against the State of Alabama or any of its agencies, commissions, boards, institutions or departments arising out of any contract, express or implied, to which the State of Alabama or any of its agencies, commissions, boards, institutions or departments are parties, where there is claimed a legal or moral obligation resting on the state;

(5) All claims for money overpaid on obligations to the State of Alabama or any of its agencies, commissions, boards, institutions or departments;

(6) All claims for money voluntarily paid to the State of Alabama or any of its agencies, commissions, boards, institutions or departments, where no legal liability existed to make such payment;

(7) All claims for underpayment by the State of Alabama or any of its agencies, commissions, boards, institutions or departments to parties having dealings with the State of Alabama or any of its agencies, commissions, boards, institutions or departments;

(8) All claims for money or property alleged to have wrongfully escheated to the State of Alabama; and

(9) All claims for injury or death of any student duly enrolled in any of the public schools of this state resulting from an accident sustained while being transported to or from school or in connection with any school activity in any bus or any motor vehicle operated directly by any school board or agency of the state or through contract with another. Awards payable to any such student for injuries sustained in such accident shall be equal to the maximum benefits payable to employees as provided in Chapter 5 of Title 25 for injuries, loss of time or medical attendance; and, where death results from such injuries, the amount payable to the parent or parents of such student shall be equal to the maximum amount payable to a totally dependent parent or parents as provided by Chapter 5 of Title 25; provided, however, that no payment for death of such student shall be made to any parent or parents unless they were actually supporting such student at the time of the accident causing the injuries and death. The fact that such student has no earning capacity or earns an average wage of less than the amount which would entitle him to maximum benefits under Chapter 5 of Title 25 shall in no way limit an award to him, his parent or parents. Awards for such injuries or death shall constitute a prior and preferred claim against moneys appropriated for the minimum program fund, and no part
of any such award shall be charged against any funds allotted to the school board of the county or city or the district board of education of the independent school district where said accident occurred. If it should appear to the Board of Adjustment after investigation that the accident causing the injury or death of such student was caused under circumstances also creating a legal liability for damages on the part of any party and it should further appear to the Board of Adjustment that claim may be made against such party by such student, his parent or legal representative to recover damages, then, in that event, any payment otherwise due under this subdivision may be withheld by the Board of Adjustment pending final settlement of such claim and, if said student or his parent or legal representative recovers damages against said party, any sum so recovered and collected may be offset against payments due under this subdivision, and the balance due, if any, shall thereafter be promptly paid by the Board of Adjustment. The provisions of this subdivision shall apply to all claims relating to injuries to school children filed with said board within one year of the date of an accident. Minor students shall have, for the purpose of this subdivision, the same power to contract, make elections of remedy, make settlements and receive compensation as adults would have subject to the power of the Board of Adjustment in its discretion at any time to require the appointment of a guardian to receive moneys or awards and payments of awards made to such minor students or their guardian shall exclude any further compensation either to the minor students or to their parents for loss of service or otherwise.

(b) The jurisdiction of the Board of Adjustment is specifically limited to the consideration of the claims enumerated in subsection (a) of this section and no others; provided, that nothing contained in this division shall confer upon the Board of Adjustment any jurisdiction now conferred by law upon the State Board of Compromise provided for in Sections 41-1-3 and 41-1-4, and nothing contained in this division shall be construed to confer jurisdiction upon the Board of Adjustment to settle or adjust any matter or claim of which the courts of this state have or had jurisdiction; provided further, that the Board of Adjustment shall have no jurisdiction over claims growing out of forfeitures or of contracts with any state agency, commission, board, institution or department where, by law or contract, said state agency, commission, board, institution or department is made the final arbiter of any disagreement growing out of forfeitures or of contracts of said state agency, commission, board, institution or department, and, particularly, the Board of Adjustment shall have no jurisdiction of disagreements arising out of contracts entered into by the Department of Transportation.

(c) Employees of municipalities and counties are not to be considered employees of the State of Alabama or of any of its agencies, commissions, boards, institutions or departments within the jurisdiction of this board and within the meaning of the word "employee" as used in this section.

§ 41-9-63. Claimant may prosecute claim in person or by counsel or agent.

A claimant shall have the right to file and prosecute his claim before the board in person or by counsel or agent of his own choice, whether such agent be licensed to practice law or not.

§ 41-9-64. Claims for death to be made by personal representative; distribution of proceeds of claim.

Claims for death shall be made by the personal representative, who shall distribute the proceeds of the claim in the same manner as is provided by law with respect to damages awarded for death by wrongful act.

§ 41-9-65. Limitation periods for presentation of claims.

(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.

(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 such claims of minors may be considered by the Board of Adjustment if the same are filed within three years after such 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.

§ 41-9-66. Board may prescribe forms and adopt rules of evidence and procedure.

The Board of Adjustment may prescribe such forms and adopt such rules of evidence and procedure as it may deem necessary or proper, not inconsistent with the provisions of this division.

§ 41-9-67. Powers, etc., of board as to requirement of production of documents, etc., generally; employment of clerical, etc., help for investigation of claims, etc.

(a) The Board of Adjustment shall have the power and it shall be its duty when any claim or claims for damages provided for in this division are presented to it to require any employee, agency, commission, board, institution or department of the State of Alabama to furnish any documents or information deemed necessary by the Board of Adjustment and to require the presence of any person or the production of any documents in the same manner as in circuit court trials with the same rights as the circuit courts to punish for contempt.

(b) With the approval of the Governor and subject to the provisions of the Merit System, the Board of Adjustment may employ such necessary clerical or other help in ascertaining the facts incident to or growing out of claims presented to it and to make such investigations and to interview such witnesses as in the opinion of the Board of Adjustment are essential to ascertain the true facts upon which to base their findings and awards.

§ 41-9-68. Determination of amount of injury or damage and entry of award for payment of damages generally.

(a) When claims are properly prepared and presented to the Board of Adjustment and, after ascertaining the facts in the case, it is directed to determine the amount of the injury, death or disability or other injury or damage arising from contract or business and to fix the damages, using as its guide, when applicable, the ordinary rules of negligence and worker's compensation laid down by the courts and the moral obligation of the State of Alabama, and to award and find the person entitled to payment and the amount, if any, which should be paid and any other facts necessary for a proper adjustment of claims. The ordinary rules of negligence as to liability are to be followed in claims by parties not employees of the State of Alabama or any of its agencies, commissions, boards, institutions or departments. The rules of Chapter 5 of Title 25 as to liability are to be followed in claims for the injury or death of convicts, in claims for employment related injury or death of any employee of a city or county board of education, college or university, and in claims
for injury or death of any employee of the State of Alabama arising out of employment with the state where the said employee is not covered by an employee injury compensation program.

(b) Whenever the provisions of this division authorize ascertainment of the amount of damages and provide for payment of the judgment, finding or award of the Board of Adjustment, they shall be construed to include also claims arising from contract or business dealings as well as for personal injury, property damage, death and disability.

§ 41-9-69. Determination of agency, commission, etc., of state inflicting injury or damage and entry of award for payment of damages out of funds appropriated thereto.

The Board of Adjustment in its findings of facts and its findings and awards as to the amount of payment may also find the agency, commission, board, institution or department of the State of Alabama which inflicted the injury or damage complained of, if it finds there is injury or damage done to persons or property, and may adjudge and find that said damage shall be paid out of the appropriation made to the agency, commission, board, institution or department of the State of Alabama whose employees, servants, agents or instrumentalities inflicted the damages and injuries complained of; provided, that the Board of Adjustment may order the payment of any claim out of any fund or funds appropriated for the purposes of this division.

§ 41-9-70. Limitation on amount of award for personal injury or death.

The Board of Adjustment shall not fix a greater amount to be paid on any claim for death or personal injuries than the limits fixed in Chapter 5 of Title 25 for injuries, loss of time, medical attendance or death; provided, that convicts shall be considered as receiving the minimum wages mentioned in Chapter 5 of Title 25.

§ 41-9-71. Secretary of board to prepare, etc., history of cases, etc., and deliver to certain agencies, etc., certified copy of findings and awards of board; Comptroller to draw warrant in favor of persons, etc., found entitled to damages, etc.

The secretary of the Board of Adjustment shall make a record of and file in the office of the Secretary of State a history of the case, together with the findings and awards of the Board of Adjustment, and shall deliver to the agencies, commissions, boards, institutions or departments against whom the award is made and by whom payment must be made a certified copy of its findings and awards.

Upon receipt of such a copy of the findings and awards of the Board of Adjustment, the agencies, commissions, boards, institutions or departments will voucher and certify same to the Comptroller of the State of Alabama who is authorized and directed to draw his warrant in favor of the person or persons, association or corporation found by the Board of Adjustment to be entitled to the damages in the amount of the damages so certified, and he shall charge the same to the appropriation as directed in said findings or awards.

§ 41-9-72. Payment by Treasurer of warrants drawn pursuant to findings and awards of board.

The Treasurer of the State of Alabama is authorized and directed to pay the warrants of the Comptroller, drawn pursuant to the findings and awards of the Board of Adjustment out of any money in the Treasury of the State of Alabama as directed by such findings and awards.
§ 41-9-73. Appropriations for payment of awards, etc.

There is hereby appropriated annually out of the General Fund of the State of Alabama, the State Insurance Fund, the fund of the department of corrections, the Education Trust Fund, the Special Mental Health fund or any other fund of the state, to be determined by the Board of Adjustment, an amount, not exceeding $1,000,000.00 for each fiscal year, as may be necessary to pay the claims ordered paid by the Board of Adjustment and its expenses. There is also hereby appropriated, for each fiscal year, an additional amount, not exceeding $175,000.00, from funds of the State Department of Transportation to pay the claims chargeable against the State Department of Transportation which are ordered paid by the Board of Adjustment and its expenses. There is also appropriated, in addition to the foregoing appropriations, from the State General Fund to the State Board of Adjustment, the sum of $400,000.00 for each fiscal year for the purpose of paying death benefits covered under the provisions of Article 1 of Chapter 30 of Title 36 of this Code.

§ 41-9-74. Board to pay judgments against Board of Corrections officials; limitations, exceptions, etc.

(a) As part of the consideration of the employment or appointment of the Commissioner of the Board of Corrections, deputy commissioners of the Board of Corrections, members of the Board of Corrections and other officers, employees and agents of the Board of Corrections, whether part-time or full-time, the Board of Adjustment shall pay all final judgments awarded in courts of competent jurisdiction against the aforesaid commissioner, deputy commissioners, members of the Board of Corrections, officers, employees and agents, for acts arising out of and performed in connection with their official duties in behalf of the State of Alabama, except to the extent that such coverage may be provided by an insurance carrier.

(b) Payment shall be limited to a maximum of $100,000.00 for all claims arising out of the same act.

(c) No part of this section shall be admissible evidence in any court of law wherein any of the officers or persons indemnified herein are parties. Nothing in this section shall be deemed to waive the sovereign immunity of the state with respect to a claim covered under this section or to authorize the payment by the state of any judgment or settlement against the aforesaid commissioner, deputy commissioners, members of the Board of Corrections, officers, employees and agents, to the extent that the same exceeds the sum of $100,000.00.

(d) The provisions of this section shall not apply to the commissioner, any deputy commissioner, any member of the Board of Corrections and any other officer, employee and agent of the Board of Corrections who is found guilty of gross negligence or intentional or knowingly unlawful behavior.

The Board of Adjustment is also mentioned in the following Alabama Code section:

§ 16-1-18.1. Accumulation of sick leave.

(a) Definitions. When used in this section, the following terms shall have the following meanings, respectively:

(1) EMPLOYEE. Any person employed full time as provided by law by those employers enumerated in this section; and adult bus drivers.

(2) EMPLOYER. All public city and county boards of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Alabama Youth Services Department District Board in its capacity as the Board of Education for the Youth Services Department District; the Board of
Directors of the Alabama School of Fine Arts; the Board of Trustees of the Alabama High School of Mathematics and Science; for purposes of subsection (c) only, the Alabama State Senate, the Lieutenant Governor, the Office of the Senate President Pro Tempore, the Speaker of the House of Representatives, the Alabama House of Representatives, the Legislative Reference Service; any organization participating in the Teachers' Retirement System (excluding any state governmental department not listed herein); the State Board of Education as applied to two-year postsecondary education institutions; and for the purposes of subsection (c) only, all four year public institutions of higher learning.

(3) EXECUTIVE OFFICER. The superintendent of any public county school system or any public city school system; the President of the Alabama Institute for Deaf and Blind; the president of any two-year school or college under the auspices of the State Board of Education; the Superintendent of the Department of Youth Services School District; the Executive Director of the Alabama School of Fine Arts; the Executive Director of the Alabama High School of Mathematics and Science; the Secretary of the Senate, the Clerk of the House of Representatives, the Lieutenant Governor; the Speaker of the House of Representatives; the chief executive officer of any other employer as provided in this section.

(4) SICK LEAVE. The absence from duty by an employee as a result of any of the following:

a. Personal illness or doctor's quarantine.

b. Incapacitating personal injury.

c. Attendance upon an ill member of the employee's immediate family (parent, spouse, child, sibling); or an individual with a close personal tie.


e. Death, injury, or sickness of another person who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

(5) ON-THE-JOB INJURY. Any accident or injury to the employee occurring during the performance of duties or when directed or requested by the employer to be on the property of the employer which prevents the employee from working or returning to his or her job.

(b) Sick leave for employees.

(1) EARNINGS. The employee shall earn one sick leave day per month of employment.

(2) REASONS FOR TAKING SICK LEAVE. The employee shall be allowed and authorized to take sick leave for any of the reasons so enumerated and defined in this section.

(3) EMPLOYEE PAY WHILE ON SICK LEAVE. Reimbursement of pay for the employee per day of sick leave shall be at the daily rate of pay for the employee.

(c) Sick leave accumulation and transfers. An employee shall be allowed to accumulate an unlimited number of sick leave days. Earned sick leave days which have been accrued by an employee shall be transferrable from one employer to another. The executive officer of the employer shall take care to ensure that certification of the number of unused sick leave days is provided to the new employer when an employee transfers employment. All of the earned and unused sick leave days which an employee has accumulated shall be transferred to the new employer for use by the employee as provided by law. However, for purposes of applying accrued sick leave as credit for retirement purposes, an employee is limited to a maximum of sick leave as authorized in subdivision (1) of
subsection (b). As pertains to receiving retirement credit for accrued sick leave, the Teacher's Board of Control shall have the authority to adopt such policies and procedures necessary to effectuate a uniform policy pursuant to this section.

(d) On-the-job injury. The following regulations, procedures, and rights are established pertaining to employees who are injured while on the job:

(1) NOTICE OF INJURY. The employee shall make proper notification of the injury to the executive officer (or to the principal of the school, if applicable), within 24 hours after the injury occurred, or where the employee is not clinically able to make notification, it shall be permissible for another person who is reasonably knowledgeable to make the notification of the injury. Other notification procedures and forms shall be as established by written policy of the employer.

(2) PHYSICIAN CERTIFICATION. The employer may require medical certification from the employee's physician that the employee was injured and cannot return to work as a result of the injury. The executive officer may, at his or her discretion, require a second opinion from another physician at the expense of the employer. The employer may require a statement from the physician that there is a reasonable expectation that the employee will be able to return to work. A uniform physician certification form shall be adopted by the State Board of Education and distributed to each executive officer.

(3) SALARY CONTINUED. Upon determination by the executive officer that an employee has been injured on the job and cannot return to work as a result of the injury, the salary and fringe benefits of the employee shall be continued for a period of up to ninety (90) working days consistent with the employee's injury and the subsequent absence from work resulting from the injury. This provision shall apply to the temporary disability of the employee as applicable to the job-related injury.

(4) EXTENSION OF DAYS. The employer may adopt a written policy to extend the 90-day sick leave period for on-the-job injuries. Additional job-injury policies may be adopted by the employer if the policies do not conflict with the section.

(5) REIMBURSEMENT TO EMPLOYER. Any reasonable on-the-job injury costs incurred by the employer (to hire a substitute) per absent injured employee in a fiscal year shall be reimbursed to the employer by the state during the next succeeding fiscal year upon application by the employer to the appropriate State Board of Education department on a form adopted by the state board (not to exceed 90 work days). The department shall subsequently submit the request to the Legislature as a line-item in its budget request for reimbursement to the employer, and, if approved by the Legislature, shall reimburse the employer at the amount per day for sick leave authorized and funded in the annual budget act for public schools and colleges.

(6) EMPLOYEE'S SICK LEAVE. Sick leave shall not be deducted from the employee's account if absence from work is found to be a result of an on-the-job injury as provided in this section.

(7) ADDITIONAL EXPENSES. Any unreimbursed medical expenses and costs which the employee incurs as a result of an on-the-job injury may be filed for reimbursement with the State Board of Adjustment. Reimbursement to the employee shall be determined by the Board of Adjustment's policies, rules, and regulations which may be adopted from time to time. The Board of Adjustment shall adopt appropriate rules, regulations, and forms for submission by the employee.

(8) The executive officer or his or her designee shall inform the employee who is injured on the job of his or her rights about appearing before the Board of Adjustment and also about applicable written policies within thirty (30) calendar days of notification of the injury.
(e) Vacations and leaves of absences. The employer shall have the authority, under the rules and regulations promulgated from time to time by the State Board of Education, to provide for paid leaves of absences and vacations for its employees. Payment may be from public funds. The employer may provide for leaves of absence during the times the schools are, or are not, in session when the teacher or employee devotes the leave to instructing in or attending schools for appropriate training, or when approved by the State Board of Education as beneficial to the state's educational objectives. The employer may also provide for the payment of any full-time teachers or employees for absences during the time schools are in session when the absence results from an unavoidable cause which prevents the teacher or employee from discharging his or her duties. Pay for the absences resulting from unavoidable causes other than sickness shall not be allowed for a longer time than one week during any one scholastic year.

(f) Postsecondary annual leave. As applied to postsecondary employers, any employee who earns and accumulates annual leave shall be entitled to accumulate up to 60 days of annual leave at a rate not to exceed that in the policy established by the State Board of Education.

(g) Policies. The policies and procedures required and permitted by this section shall be adopted by the employer consistent with and as required by Section 16-1-30.