

1 HB248
2 216690-1
3 By Representatives Isbell and Robbins
4 RFD: Judiciary
5 First Read: 03-FEB-22

SYNOPSIS: Under current law, immunity from civil liability is granted to officers, employees, and agents of the state, under certain conditions.

This bill would provide that the revenue commissioner, tax assessor, and tax collector of each county is considered an officer of the state for purposes of immunity from civil liability.

A BILL
TO BE ENTITLED
AN ACT

Relating to sovereign immunity; to amend Section 36-1-12, Code of Alabama 1975, to provide further for the immunity from civil liability of certain public officers or employees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-1-12, Code of Alabama 1975, is amended to read as follows:

"§36-1-12.

1 "(a) (1) For the purposes of this section, "education
2 employee" means a certified or noncertified employee of the
3 State Board of Education or any local board of education and
4 an employee of the Alabama Institute for Deaf and Blind, the
5 Alabama School of Fine Arts, the Department of Youth Services,
6 or the Alabama School of Mathematics and Science.

7 "(2) For purposes of this section, the revenue
8 commissioner, tax assessor, and tax collector of each county
9 shall be an officer of the state. This subdivision shall not
10 be construed to eliminate, alter, or otherwise modify any
11 immunity granted to any other public officer or employee
12 pursuant to this section.

13 "(b) An officer, employee, or agent of the state,
14 including, but not limited to, an education employee, acting
15 in his or her official capacity is immune from civil liability
16 in any suit pursuant to Article I, Section 14, of the
17 Constitution of Alabama of 1901.

18 "(c) An officer, employee, or agent of the state,
19 including, but not limited to, an education employee, is
20 immune from civil liability in his or her personal capacity
21 when the conduct made the basis of the claim is based upon the
22 agent's doing any of the following:

23 "(1) Formulating plans, policies, or designs.

24 "(2) Exercising his or her judgment in the
25 administration of a department or agency of government,
26 including, but not limited to, examples such as:

27 "a. Making administrative adjudications.

1 "b. Allocating resources.

2 "c. Negotiating contracts.

3 "d. Hiring, firing, transferring, assigning, or
4 supervising personnel.

5 "(3) Discharging duties imposed on a department or
6 agency by statute, rule, or regulation, insofar as the
7 statute, rule, or regulation prescribes the manner for
8 performing the duties and the state agent performs the duties
9 in that manner.

10 "(4) Exercising judgment in the enforcement of the
11 criminal laws of the state, including, but not limited to, law
12 enforcement officers' arresting or attempting to arrest
13 persons.

14 "(5) Exercising judgment in the discharge of duties
15 imposed by statute, rule, or regulation in releasing
16 prisoners, counseling or releasing persons of unsound mind, or
17 educating students.

18 "(d) Notwithstanding subsection (c), an education
19 employee, officer, employee, or agent of the state is not
20 immune from civil liability in his or her personal capacity if
21 either of the following apply:

22 "(1) The Constitution or laws of the United States,
23 or the Constitution of this state, or laws, or rules, ~~or~~
24 ~~regulations~~ of this state enacted or ~~promulgated~~ adopted for
25 the purpose of regulating the activities of a governmental
26 agency require otherwise, ~~or~~.

1 "(2) The education employee, officer, employee, or
2 agent of the state acts willfully, maliciously, fraudulently,
3 in bad faith, beyond his or her authority, or under a mistaken
4 interpretation of the law.

5 "(e) This section shall not be construed to
6 eliminate, alter, or otherwise modify any other immunity
7 regarding officers, employees, or agents of the state
8 established under the Constitution and laws of this state."

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.