

1 SB469
2 134520-1
3 By Senator Marsh
4 RFD: Judiciary
5 First Read: 05-APR-12

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8 SYNOPSIS: Under case law since 1976, the Alabama
9 Supreme Court had ruled that local agencies of the
10 state could be sued in contract. In 2009, the
11 Alabama Supreme Court overruled its prior ruling,
12 holding that local agencies of state government are
13 immune from suit. A suit filed by a party in
14 circuit or district court prior to the Alabama
15 Supreme Court's ruling in 2009, on a contract claim
16 would generally be subject to dismissal by the
17 court. However, because the time period for filing
18 a claim with the State Board of Adjustment may have
19 already passed, the party may not have any forum to
20 have its claim heard on the merits.

21 This bill would extend the time for filing a
22 claim based on contract with the State Board of
23 Adjustment against local agencies of state
24 government if the claim was originally filed in
25 circuit or district court prior to the Alabama
26 Supreme Court ruling discussed above.
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1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 To amend Section 41-9-65 of the Code of Alabama
6 1975, relating to the time for presenting claims before the
7 State Board of Adjustment, to extend the time for presenting
8 claims against local agencies of state government under
9 certain conditions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 41-9-65 of the Code of Alabama
12 1975, is amended to read as follows:

13 "§41-9-65.

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

24 "(b) Claims for injury to the person resulting in
25 death must be presented to the Board of Adjustment within two
26 years after the cause of action accrues, unless the same is
27 first carried into the courts of the state, in which event the

1 statute of limitations shall not begin to run until the date
2 on which a final judgment in the same, holding the claimant
3 not entitled to relief through the courts of the state, is
4 entered.

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

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

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

25 "(1) The agency has promulgated written procedures
26 for claiming reimbursement, which include timelines, which
27 procedures have been approved by the agency head.

1 "(2) A copy of the agency's current written
2 procedures has been distributed to all counties prior to the
3 time the county or a department, agency, board, commission,
4 public corporation, or instrumentality of the county incurred
5 the expenses for which reimbursement is sought.

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

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

16 "(f) The Board of Adjustment's one-year statute of
17 limitations, as set out in subsection (a), shall apply to
18 claims filed therein pursuant to subsection (e) and, for
19 statute of limitations purposes, the Board of Adjustment claim
20 shall be deemed to have accrued on the date the claim for
21 reimbursement was denied by the state agency. The Board of
22 Adjustment shall uphold the agency's denial of reimbursement
23 based solely on the failure to file timely if the
24 reimbursement request is submitted to the agency more than 12
25 months after the November 30 following the close of the fiscal
26 year in which the expense was incurred."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.