

1 SB296
2 190785-3
3 By Senator Hightower
4 RFD: Governmental Affairs
5 First Read: 08-FEB-18

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8 SYNOPSIS: Under existing law, the Board of Adjustment
9 may compensate a person for a claim alleging sexual
10 assault, sexual harassment, or other sexual
11 misconduct by a state officer or employee.

12 This bill would provide that claims against
13 officers or employees of the state for damages
14 associated with sexual assault, sexual harassment,
15 or other sexual misconduct are outside of the
16 jurisdiction of the Board of Adjustment and would
17 prohibit any state or public funds from being paid
18 to settle any claim alleging sexual assault, sexual
19 harassment, or other sexual misconduct by a state
20 officer or employee.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to public funds; to amend Section 41-9-62,
27 Code of Alabama 1975, to further provide for the jurisdiction

1 of the Board of Adjustment; and to prohibit the use of state
2 or public funds from being paid toward any claim alleging
3 sexual assault, sexual harassment, or other sexual misconduct
4 by a state officer or employee.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 41-9-62, Code of Alabama 1975, is
7 amended to read as follows:

8 "§41-9-62.

9 "(a) The Board of Adjustment shall have the power
10 and jurisdiction and it shall be its duty to hear and
11 consider:

12 "(1) All claims for damages to the person or
13 property growing out of any injury done to either the person
14 or property by the State of Alabama or any of its agencies,
15 commissions, boards, institutions or departments, with the
16 exception of any of the following:

17 a. Claims ~~claims~~ by employees of the state for
18 personal injury or death arising out of the course of
19 employment with the State of Alabama, where such employees are
20 covered by an employee injury compensation program;

21 b. Claims of the public at large or employees of the
22 state filed against officers or employees of the state,
23 including elected public officials, for damages associated
24 with sexual assault, sexual harassment, or other sexual
25 misconduct.

26 "(2) All claims for personal injuries to or the
27 death of any convict, and all claims for personal injuries to

1 or the death of any employee of a city or county board of
2 education, or college or university, arising out of the course
3 of the employee's employment and where the employee is not
4 covered by a worker's compensation program;

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

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

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

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

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

1 the State of Alabama or any of its agencies, commissions,
2 boards, institutions or departments;

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

5 "(9) All claims for injury or death of any student
6 duly enrolled in any of the public schools of this state
7 resulting from an accident sustained while being transported
8 to or from school or in connection with any school activity in
9 any bus or any motor vehicle operated directly by any school
10 board or agency of the state or through contract with another.
11 Awards payable to any such student for injuries sustained in
12 such accident shall be equal to the maximum benefits payable
13 to employees as provided in Chapter 5 of Title 25 for
14 injuries, loss of time or medical attendance; and, where death
15 results from such injuries, the amount payable to the parent
16 or parents of such student shall be equal to the maximum
17 amount payable to a totally dependent parent or parents as
18 provided by Chapter 5 of Title 25; provided, however, that no
19 payment for death of such student shall be made to any parent
20 or parents unless they were actually supporting such student
21 at the time of the accident causing the injuries and death.
22 The fact that such student has no earning capacity or earns an
23 average wage of less than the amount which would entitle him
24 to maximum benefits under Chapter 5 of Title 25 shall in no
25 way limit an award to him, his parent or parents. Awards for
26 such injuries or death shall constitute a prior and preferred
27 claim against moneys appropriated for the minimum program

1 fund, and no part of any such award shall be charged against
2 any funds allotted to the school board of the county or city
3 or the district board of education of the independent school
4 district where said accident occurred. If it should appear to
5 the Board of Adjustment after investigation that the accident
6 causing the injury or death of such student was caused under
7 circumstances also creating a legal liability for damages on
8 the part of any party and it should further appear to the
9 Board of Adjustment that claim may be made against such party
10 by such student, his parent or legal representative to recover
11 damages, then, in that event, any payment otherwise due under
12 this subdivision may be withheld by the Board of Adjustment
13 pending final settlement of such claim and, if said student or
14 his parent or legal representative recovers damages against
15 said party, any sum so recovered and collected may be offset
16 against payments due under this subdivision, and the balance
17 due, if any, shall thereafter be promptly paid by the Board of
18 Adjustment. The provisions of this subdivision shall apply to
19 all claims relating to injuries to school children filed with
20 said board within one year of the date of an accident. Minor
21 students shall have, for the purpose of this subdivision, the
22 same power to contract, make elections of remedy, make
23 settlements and receive compensation as adults would have
24 subject to the power of the Board of Adjustment in its
25 discretion at any time to require the appointment of a
26 guardian to receive moneys or awards and payments of awards
27 made to such minor students or their guardian shall exclude

1 any further compensation either to the minor students or to
2 their parents for loss of service or otherwise.

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

24 "(c) Employees of municipalities and counties are
25 not to be considered employees of the State of Alabama or of
26 any of its agencies, commissions, boards, institutions or

1 departments within the jurisdiction of this board and within
2 the meaning of the word "employee" as used in this section."

3 Section 2. Except as provided in Article 1,
4 commencing with Section 15-23-1, of Chapter 23 of Title 15,
5 Code of Alabama 1975, the Alabama Crime Victims Compensation
6 Act, no state or public funds may be used to pay settlement of
7 or judgment for a claim alleging sexual assault, sexual
8 harassment, or other sexual misconduct.

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