

1 SB194
2 147896-1
3 By Senators Fielding, Ward, Allen, Pittman and Glover
4 RFD: Judiciary
5 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, the definition of a
9 "governmental entity" for the purpose of tort
10 claims and judgments against local governmental
11 entities does not specifically include employees
12 acting within the line and scope of their duties on
13 behalf of the entity.

14 This bill would specify that employees
15 acting within the line and scope of their duties
16 are included in the definition of "governmental
17 entity" for tort claims and judgments against local
18 governmental entities.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

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24 To amend Section 11-93-1, Code of Alabama 1975,
25 relating to tort claims and judgments against local
26 governmental entities; to specifically include employees

1 acting within the line and scope of their official duties
2 within the definition of "governmental entity."

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 11-93-1, Code of Alabama 1975, is
5 amended to read as follows:

6 "§11-93-1.

7 "For the purposes of this chapter, the following
8 terms shall have the meanings ascribed to them by this
9 section:

10 "(1) GOVERNMENTAL ENTITY. Any incorporated
11 municipality, any county, and any department, agency, board,
12 or commission of any municipality or county, municipal or
13 county public corporations, and any such instrumentality or
14 instrumentalities acting jointly. "Governmental entity" shall
15 also include county public school boards, municipal public
16 school boards and city-county school boards when such boards
17 do not operate as functions of the State of Alabama.
18 "Governmental entity" shall also mean county or city hospital
19 boards when such boards are instrumentalities of the
20 municipality or county or organized pursuant to authority from
21 a municipality or county. The term shall also include any
22 employee of the governmental entity as defined in subdivision
23 (2).

24 "(2) EMPLOYEE. An officer, official, employee, or
25 servant of a governmental entity, including elected or
26 appointed officials, and persons acting on behalf of any
27 governmental entity in any official capacity within the line

1 and scope of his or her employment or duties, temporarily or
2 permanently, in the service of the governmental entity,
3 whether with or without compensation, but the term "employee"
4 shall not mean a person or other legal entity while acting in
5 the capacity of an independent contractor under contract to
6 the governmental entity to which this chapter applies in the
7 event of a claim.

8 "(3) BODILY INJURY. Any bodily injury, sickness,
9 disease, or death sustained by any person or caused by an
10 occurrence.

11 "(4) PROPERTY DAMAGE. Injury or destruction to
12 tangible property caused by an occurrence.

13 "(5) CLAIM. Any claim against a governmental entity,
14 for money damages only, which any person is legally entitled
15 to recover as damages caused by bodily injury or property
16 damage caused by a negligent or wrongful act or omission
17 committed by any employee of the governmental entity while
18 acting within the scope of his or her employment, under
19 circumstances where the governmental entity, if a private
20 person, would be liable to the claimant for such damages under
21 the laws of the State of Alabama. A claim against an employee
22 acting within the line and scope of his or her employment or
23 duties is a claim against the employing governmental entity
24 and not a claim against the employee in his or her personal or
25 individual capacity."

26 Section 2. This act is declaratory of existing law.

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