COMMITTEE REPORT

April 14, 2010

**S. 1210**

Introduced by Senators Fair, Reese, Cromer, Campbell, Coleman, Shoopman and Williams

S. Printed 4/14/10--S.

Read the first time February 23, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1210) to amend Chapter 1, Title 8 of the 1976 Code, relating to public officers and employees, by adding Section 8‑1‑195, to provide that in any, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 78, Title 15 of the 1976 Code is amended by adding:

“Section 15‑78‑35. If an employee of a governmental entity is sued for civil conspiracy based in part upon either a personnel or employment action or decision regarding another employee of a governmental entity, the court must, prior to trial, make a determination whether the action or decision giving rise to the suit was made by the employee within the scope of official duty. If the court finds that the employee was acting within the scope of the employee’s official duties, the governmental entity and the employee of the governmental entity are immune from suit, liability, and damages from the civil conspiracy claim. The immunity granted by this section does not limit any claim available at law, other than civil conspiracy, which challenges personnel or employment action of a governmental entity.”

SECTION 2. This act takes effect upon approval by the Governor and applies to any claim that arises or accrues after that date. /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

State Budget and Control Board

The board indicates there is no fiscal impact to the Insurance Reserve Fund with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 8 OF THE 1976 CODE, RELATING TO PUBLIC OFFICERS AND EMPLOYEES, BY ADDING SECTION 8‑1‑195, TO PROVIDE THAT IN ANY CIVIL CONSPIRACY LAWSUIT BROUGHT UPON A STATE EMPLOYEE, IF THE COURT FINDS THAT THE EMPLOYEE WAS ACTING WITHIN THE SCOPE OF THE EMPLOYEE’S OFFICIAL DUTIES, THE EMPLOYEE IS IMMUNE FROM SUIT, LIABILITY, AND DAMAGES FROM THE CIVIL CONSPIRACY CLAIM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 8 of the 1976 Code is amended by adding:

“Section 8‑1‑195. If an individual state employee or former state employee is sued for civil conspiracy based in part upon a personnel or employment action or decision regarding a state employee, the court must, prior to trial, make a final determination whether the action or decision giving rise to the suit was made by the employee within the scope of official duty. If the court finds that the employee was acting within the scope of the employee’s official duties, the employee is immune from suit, liability, and damages from the civil conspiracy claim. The court’s decision is immediately appealable by any party. The immunity granted by this section does not limit any claim available at law, other than civil conspiracy, which challenges personnel or employment action of a governmental entity.

When applicable, the terms used in this section shall have the same meaning as the terms defined in Section 15‑78‑30.”

SECTION 2. This act takes effect upon approval by the Governor and applies to any pending claim that has not reached a judgment in a trial court, as well as any claim filed after the effective date.

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