~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 19, 2010

**H. 3249**

Introduced by Reps. G.M. Smith and Viers

S. Printed 5/19/10--S.

Read the first time April 21, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3249) to amend Sections 15‑78‑30 and 15‑78‑50, Code of Laws of South Carolina, 1976, relating to liability pursuant to the Tort Claims Act, 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, page 1, in Section 8-1-195 (A), as contained in SECTION 1, by striking line 32 and inserting the following:

/ action or decision regarding an employee, the court, prior to /

Amend the bill further, as and if amended, page 2, as contained in SECTION 2, by striking line 4 and inserting the following:

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

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LARRY A. MARTIN JOHN L. SCOTT, JR.

For Majority. For Minority.

**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:**

The State Budget and Control Board indicates there is no fiscal impact with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTIONS 15‑78‑30 AND 15‑78‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIABILITY PURSUANT TO THE TORT CLAIMS ACT, SO AS TO FURTHER DEFINE THE DEFINITIONS OF THE TERMS “SCOPE OF OFFICIAL DUTY” AND “SCOPE OF STATE EMPLOYMENT” AND TO EXPRESSLY PROVIDE FOR IMMUNITY OF CERTAIN GOVERNMENTAL EMPLOYEES WHEN INVESTIGATING POTENTIAL WRONGDOING OR DISCIPLINING ANOTHER EMPLOYEE UNDER CERTAIN CIRCUMSTANCES.

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. (A) If the State, an agency, a political subdivision, or an employee of these governmental entities is sued for civil conspiracy based in part upon a personnel or employment action or decision regarding a state employee, the court, prior to trial, must 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 State, an agency, a political subdivision, or an employee of these governmental entities is 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.

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

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑