

By Senator Ostalkiewicz

12-629-98

See HB

1 A bill to be entitled
2 An act relating to administrative procedure;
3 creating s. 120.571, F.S., the "Agency
4 Accountability Act"; providing for liability
5 upon an agency that has made a determination
6 affecting the substantial interests of a party
7 based on a grossly negligent assessment of
8 material facts, under specified circumstances;
9 providing for agency liability for actual
10 damages and attorney's fees incurred by the
11 party suffering financial harm as a result of
12 the determination; providing for waiver of
13 sovereign immunity; specifying applicability;
14 providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 120.571, Florida Statutes, is
19 created to read:

20 120.571 Agency liability for grossly negligent
21 assessment of material facts; waiver of sovereign immunity.--

22 (1) SHORT TITLE.--This section may be cited as the
23 "Agency Accountability Act."

24 (2) APPLICATION TO ADMINISTRATIVE PROCEEDINGS.--This
25 section applies to all proceedings in which the substantial
26 interests of a party have been determined by final action of
27 an agency.

28 (3) AGENCY LIABILITY.--Notwithstanding s. 120.68 or
29 any other provision to the contrary, if the court reviewing
30 the final action finds that an agency, in determining a
31 material fact within the agency's exercise of delegated

1 discretion, has made a grossly negligent factual assessment
2 causing financial harm to a party, the court shall enter an
3 order finding the agency liable for any actual damages and
4 attorney's fees incurred by the party suffering the financial
5 harm.

6 (4) WAIVER OF SOVEREIGN IMMUNITY.--The limitations on
7 waiver of sovereign immunity in any other provision of law to
8 the contrary notwithstanding, the state, in accordance with s.
9 13, Art. X of the State Constitution, hereby waives sovereign
10 immunity for the state itself, and for its agencies and
11 subdivisions, for the express and limited purpose necessary to
12 carry out this section.

13 Section 2. This act shall take effect July 1, 1998,
14 and shall apply to all proceedings for which final agency
15 action has been rendered on or after that date.

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18 SENATE SUMMARY

19 Creates the "Agency Accountability Act of 1998."
20 Provides for court orders to impose liability upon an
21 agency that has made a determination affecting the
22 substantial interests of a party based on a grossly
23 negligent assessment of material facts, under specified
24 circumstances. With respect to the financial harm
25 incurred by a party as a result of the final agency
26 action, provides that agency liability extends to actual
27 damages and attorney's fees. Provides for waiver of
28 sovereign immunity to the extent necessary to carry out
29 the act.
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