

By Senator Holzendorf

2-587A-98

1 A bill to be entitled
 2 An act relating to the Florida Birth-Related
 3 Neurological Injury Compensation Association;
 4 amending s. 766.301, F.S.; providing
 5 legislative intent; amending s. 766.304, F.S.;
 6 providing that the administrative law judge
 7 determines the jurisdiction of a claim under
 8 ss. 766.301-766.316, F.S.; prescribing
 9 circumstances in which an action may not be
 10 brought under ss. 766.301-766.316, F.S.;
 11 amending s. 766.315, F.S.; revising the
 12 restrictions upon investments; providing an
 13 effective date.

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

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 17 Section 1. Paragraph (d) of subsection (1) of section
 18 766.301, Florida Statutes, is amended to read:

19 766.301 Legislative findings and intent.--
 20 (1) The Legislature makes the following findings:
 21 (d) The costs of birth-related neurological injury
 22 claims are particularly high and warrant the establishment of
 23 a limited system of compensation irrespective of fault, and
 24 the issue of whether such claims are covered by ss.
 25 766.301-766.316 must be determined exclusively in an
 26 administrative proceeding.

27 Section 2. Section 766.304, Florida Statutes, is
 28 amended to read:

29 766.304 Administrative law judge to determine
 30 claims.--The administrative law judge shall hear and determine
 31 all claims filed pursuant to ss. 766.301-766.316 and shall

1 exercise the full power and authority granted to her or him in
2 chapter 120, as necessary, to carry out the purposes of such
3 sections. The administrative law judge has exclusive
4 jurisdiction to determine whether a claim filed under ss.
5 766.301-766.316 is compensable. A civil action may not be
6 brought until the determinations under s. 766.309 have been
7 made by the administrative law judge. If the administrative
8 law judge determines that the claimant is entitled to
9 compensation from the association, a civil action may not be
10 brought or continued in violation of the exclusive-remedy
11 provisions of s. 766.303. An action arising out of a
12 birth-related neurological injury may not be brought under ss.
13 766.301-766.316 if the claimant has recovered compensation for
14 that injury from any source or if a final judgment has been
15 entered in a legal action arising out of that injury.The
16 division may adopt rules to promote the efficient
17 administration of, and to minimize the cost associated with,
18 the prosecution of claims.

19 Section 3. Paragraph (e) of subsection (5) of section
20 766.315, Florida Statutes, is amended to read:

21 766.315 Florida Birth-Related Neurological Injury
22 Compensation Association; board of directors.--

23 (5)(e) Funds held on behalf of the plan are funds of
24 this state, and the association may invest plan funds only in
25 the investments and securities described in s. 215.47 and is
26 subject to the limitations on investments contained in that
27 section.~~Any funds held on behalf of the plan must be invested~~
28 ~~in interest-bearing investments by the association.~~All income
29 derived from such investments will be credited to the plan.

30 Section 4. This act shall take effect upon becoming a
31 law.

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SENATE SUMMARY

Relates to the Florida Birth-Related Neurological Injury Compensation Association. Provides legislative intent. Provides that an administrative law judge is to determine the jurisdiction of a claim under ss. 766.301-766.316, F.S. Provides that an action may not be brought under ss. 766.301-766.316, F.S., if the claimant has already recovered from any source or if a final judgment has been entered in a legal action. Revises restrictions placed upon investments.