

By the Committee on Governmental Reform and Oversight and
Senator Campbell

302-1903-98

1 A bill to be entitled
2 An act relating to culpable negligence;
3 providing definitions; specifying conditions
4 for committing culpable negligence causing
5 public financial injury; providing penalties;
6 requiring certain contracts to provide notice
7 of such conditions; providing construction;
8 providing for prosecution by a state attorney
9 or the Statewide Prosecutor; providing an
10 effective date.

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

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14 Section 1. As used in this act, the term:

15 (1) "Contract manager" means any person who has been
16 given the custody, and awarded the privilege, of administering
17 state financial assets in state trust funds pursuant to a
18 contract. For the purposes of this section, a contract
19 manager includes both the business and any of its owners,
20 operators, officers, directors, or partners or any other
21 individual engaged in the day-to-day management activities of
22 the business.

23 (2) "State financial assets" means monetary funds
24 intended for, existing in, or owed to any state trust fund,
25 not invested or held by or on behalf of the State Treasurer or
26 the State Board of Administration, and includes any negotiable
27 or other monetary instrument drawn on or disbursed from a
28 trust fund.

29 (3) "Entrusted by the state" means that the state has
30 given custody of and disbursement authority over state
31 financial assets to the contract manager by means of a

1 contract, without regard to whether there exists a fiduciary
2 relationship between the state and the contract manager.

3 (4) "Culpable negligence" means negligence of a gross
4 and flagrant character which evinces a reckless disregard for
5 the state financial assets entrusted to a contract manager and
6 leads to a presumption of indifference to the consequences.

7 Section 2. Culpable negligence causing public
8 financial injury.--

9 (1) Any contract manager who, having been entrusted by
10 the state with the care and custody of state financial assets
11 in a state trust fund, causes or through inaction allows to be
12 caused aggregate financial losses valued at \$100,000 or more
13 of those state financial assets over a 12-month period through
14 culpable negligence commits the offense of culpable negligence
15 causing public financial injury, a felony of the third degree,
16 punishable as provided in section 775.082, section 775.083, or
17 section 775.084, Florida Statutes.

18 (2) Any state contract with a contract value of
19 \$50,000 or more which entrusts state financial assets in a
20 state trust fund to a contract manager shall include notice of
21 the provisions of subsection (1). Failure to provide this
22 notice shall not constitute a defense to the crime of culpable
23 negligence causing public financial injury.

24 (3) Prosecutions for violations of this act may be
25 brought on behalf of this state by any state attorney or by
26 the Statewide Prosecutor.

27 Section 3. This act shall take effect July 1, 1998.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2150

The committee substitute provides that the definition of "contract manager" includes individuals engaged in the day-to-day management activities of the business.

The committee substitute eliminates felony charges in the first and second degrees for culpable negligence, and finds that all individuals who are deemed culpably negligent and that causes financial loss of \$100,000 or more shall be charged with a third degree felony.