

By Representative Posey

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 of 1997"; providing for
 5 court orders imposing liability upon an agency
 6 which has made a determination affecting the
 7 substantial interests of a party based on a
 8 grossly negligent assessment of material facts,
 9 under specified circumstances; providing for
 10 agency liability for actual damages and
 11 attorney's fees incurred by the party suffering
 12 financial harm as a result of the
 13 determination; providing for waiver of
 14 sovereign immunity; specifying applicability;
 15 providing an effective date.

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

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

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

23 (1) This section shall be known and may be cited as
 24 the "Agency Accountability Act of 1997."

25 (2) APPLICATION TO ADMINISTRATIVE PROCEEDINGS.--The
 26 provisions of this section apply in all proceedings in which
 27 the substantial interests of a party have been determined by
 28 final action of an agency.

29 (3) AGENT LIABILITY.--Notwithstanding s. 120.68 or any
 30 other provision to the contrary, if the court reviewing the
 31 final action finds that the agency, in determining a material

1 fact within the agency's exercise of delegated discretion, has
2 made a grossly negligent factual assessment causing financial
3 harm to a party, the court shall enter an order finding the
4 agency liable for any actual damages and attorney's fees
5 incurred by the party suffering the financial 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, 1997,
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 HOUSE SUMMARY

19 Creates the "Agency Accountability Act of 1997."
20 Provides for court orders to impose liability upon an
21 agency which 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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