

By the Committee on Governmental Rules & Regulations and
Representatives Posey, Wallace and Feeney

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) SHORT TITLE.--This section shall be known and may
24 be cited as 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) AGENCY LIABILITY.--Notwithstanding s. 120.68 or
30 any other provision to the contrary, if the court reviewing
31 the final action finds that the agency, in determining a

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

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

14 Section 2. This act shall take effect July 1, 1997,
15 and shall apply to all proceedings for which final agency
16 action has been rendered on or after that date.

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19 HOUSE SUMMARY

20 Creates the "Agency Accountability Act of 1997."
21 Provides for court orders to impose liability upon an
22 agency which has made a determination affecting the
23 substantial interests of a party based on a grossly
24 negligent assessment of material facts, under specified
25 circumstances. With respect to the financial harm
26 incurred by a party as a result of the final agency
27 action, provides that agency liability extends to actual
28 damages and attorney's fees. Provides for waiver of
29 sovereign immunity to the extent necessary to carry out
30 the act.
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