

By the Committee on Governmental Oversight and Productivity;
and Senator Campbell

302-1078-99

1 A bill to be entitled
2 An act relating to culpable negligence;
3 creating s. 812.030, F.S.; providing
4 definitions; specifying the offense of culpable
5 negligence causing public financial injury;
6 specifying elements of the offense; providing
7 penalties; requiring certain notice in certain
8 state contracts; specifying that failure to
9 provide such notice does not constitute a
10 defense to the offense; providing for
11 prosecuting such offenses; providing an
12 effective date.

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

16 Section 1. Section 812.030, Florida Statutes, is
17 created to read:

18 812.030 Culpable negligence causing public financial
19 injury.--

20 (1) For purposes of this act:

21 (a) "Culpable negligence" means negligence of a gross
22 and flagrant character which evinces a reckless disregard for
23 public property and is so outrageous as to raise a presumption
24 that the offender was indifferent to the consequences of his
25 or her action or inaction.

26 (b) "Public property" means property, as defined in s.
27 812.012, which is owned by the state, except funds held by the
28 state for investment purposes, including public employee
29 retirement or pension funds.

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1 (c) "State" means the state, any agency of the state,
2 any political subdivision of the state, or any agency of a
3 political subdivision of the state.

4 (2)(a) A person commits the offense of culpable
5 negligence causing public financial injury if the state has
6 entrusted public property to such person and the person
7 through culpable negligence causes losses, or through inaction
8 allows losses, in the value of such property of \$100,000 or
9 more in any 12-month period or contract period, whichever is
10 longer. For purposes of this paragraph, the term:

11 1. "Entrust" means giving custody or control by any
12 means, to a person or, in the case of a legal entity, to that
13 entity's officers, directors, employees, or agents who have
14 managerial authority over the public property or who could
15 otherwise prevent financial injury, regardless of the
16 existence of a fiduciary relationship.

17 2. "Causes losses, or through inaction allows losses"
18 means acting or failing to act under circumstances which would
19 indicate that a loss of value would occur when such a loss
20 could reasonably be foreseen and prevented, even though the
21 loss was not actually intended.

22 (b) If the loss is valued at \$100,000 or more, but
23 less than \$500,000, the offense is a misdemeanor of the first
24 degree, punishable as provided in ss. 775.082 and 775.083.

25 (c) If the loss is valued at \$500,000 or more, the
26 offense is a felony of the third degree, punishable as
27 provided in ss. 775.082, 775.083, and 775.084.

28 (3) Any state contract with a contract value of
29 \$50,000 or more shall include notice of the provisions of
30 subsection (2). Failure to provide this notice shall not
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1 constitute a defense to the crime of culpable negligence
2 causing public financial injury.

3 (4) Prosecutions for violations of this section may be
4 brought on behalf of the state by any state attorney or by the
5 statewide prosecutor. Only the Department of Legal Affairs,
6 any state attorney, or any state agency having jurisdiction
7 over conduct in violation of a provision of ss.
8 812.012-812.037 or s. 812.081 may institute civil proceedings
9 under this section.

10 Section 2. This act shall take effect July 1, 1999.

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12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 Senate Bill 74

15 The committee substitute changes the third degree felony
16 threshold to \$500,000 from \$1,000,000 for losses of public
property.

17 The committee substitute exempts funds held by the state for
18 investment purposes, including public employee retirement or
pension funds.

19 The committee substitute clarifies the provisional time period
20 to include the contracted period, whichever is longer.