

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Fasano and Hart offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Section 768.29, Florida Statutes, is
created to read:

768.29 Strategic Lawsuits Against Public Participation
(SLAPP) suits by governmental entities prohibited.--

(1) This section may be cited as the "Citizen
Participation in Government Act."

(2) It is the intent of the Legislature to protect the
right of Florida's citizens to exercise their rights to
peacefully assemble, instruct their representatives, and
petition for redress of grievances before the various
governmental entities of this state as protected by the First
Amendment to the United States Constitution and Art. I,
Section 5 of the State Constitution. The Legislature
recognizes that "Strategic Lawsuits Against Public
Participation" or "SLAPP" suits, as they are typically called,

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1 have increased over the last 30 years and are mostly filed by
2 private industry and individuals. However, it is the public
3 policy of this state that government entities not engage in
4 SLAPP suits because such actions are inconsistent with the
5 right of individuals to participate in the state's
6 institutions of government. Therefore, the Legislature finds
7 and declares that prohibiting such lawsuits by governmental
8 entities will preserve this fundamental state policy, preserve
9 the constitutional rights of Florida citizens, and assure the
10 continuation of representative government in this state. It
11 is the intent of the Legislature that such lawsuits be
12 expeditiously disposed of by the courts.

13 (3) As used in this section, "governmental entity" or
14 "government entity" means the state, including the executive,
15 legislative, and the judicial branches of government and the
16 independent establishments of the state, counties,
17 municipalities, corporations primarily acting as
18 instrumentalities of the state, counties, or municipalities,
19 districts, authorities, boards, commissions, or any agencies
20 thereof.

21 (4) No governmental entity in this state shall file or
22 cause to be filed, through its employees or agents, any
23 lawsuit, cause of action, claim, cross-claim, or counterclaim
24 against a person or entity without merit and solely because
25 such person or entity has exercised the right to peacefully
26 assemble, the right to instruct representatives, and the right
27 to petition for redress of grievances before the various
28 governmental entities of this state, as protected by the First
29 Amendment to the United States Constitution and Art. I,
30 section 5 of the State Constitution.

31 (5) A person or entity sued by a governmental entity

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1 in violation of this section has a right to an expeditious
2 resolution of a claim that the suit is in violation of this
3 section. A person or entity may petition the court for an
4 order dismissing the action or granting final judgment in
5 favor of that person or entity. The petitioner may file a
6 motion for summary judgment, together with supplemental
7 affidavits, seeking a determination that the governmental
8 entity's lawsuit has been brought in violation of this
9 section. The governmental entity shall thereafter file its
10 response and any supplemental affidavits. As soon as
11 practicable, the court shall set a hearing on the petitioner's
12 motion, which shall be held at the earliest possible time
13 after the filing of the governmental entity's response. The
14 court may award, subject to the limitations in s. 768.28, the
15 party sued by a governmental entity actual damages arising
16 from the governmental entity's violation of this act. The
17 court shall award the prevailing party reasonable attorney's
18 fees and costs incurred in connection with a claim that an
19 action was filed in violation of this section.

20 (6) In any case filed by a governmental entity which
21 is found by a court to be in violation of this section, the
22 governmental entity shall report such finding and provide a
23 copy of the court's order to the Attorney General no later
24 than 30 days after such order is final. The Attorney General
25 shall report any violation of this section by a governmental
26 entity to the Cabinet, and the President of the Senate, and
27 the Speaker of the House of Representatives. A copy of such
28 report shall be provided to the affected governmental entity.

29 Section 2. This act shall take effect upon becoming a
30 law.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, lines 4-8,
4 remove from the title of the bill: all of said lines

5
6 and insert in lieu thereof:

7 creating s. 768.29, F.S.; providing legislative
8 intent; defining terms; prohibiting SLAPP
9 lawsuits by governmental entities because
10 persons or entities exercise certain
11 constitutional rights; providing procedures for
12 expediting resolution of motions regarding
13 SLAPP suits; authorizing court to award actual
14 damages, including costs and attorney's fees;
15 requiring reporting of SLAPP suits to Attorney
16 General and reporting of violations to certain
17 state officers; providing an

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