

By the Committee on Governmental Oversight and Productivity;
and Senators Campbell and Smith

302-1340-01

1 A bill to be entitled
2 An act relating to sovereign immunity; amending
3 s. 768.28, F.S.; providing that the state, an
4 agency, or a subdivision thereof may settle a
5 judgment or claim within the limits of a
6 self-insurance fund; clarifying that any
7 defense of sovereign immunity is not waived as
8 a result of providing a specified
9 risk-management program; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (5) of section 768.28, Florida
15 Statutes, is amended to read:

16 768.28 Waiver of sovereign immunity in tort actions;
17 recovery limits; limitation on attorney fees; statute of
18 limitations; exclusions; indemnification; risk management
19 programs.--

20 (5) The state and its agencies and subdivisions shall
21 be liable for tort claims in the same manner and to the same
22 extent as a private individual under like circumstances, but
23 liability shall not include punitive damages or interest for
24 the period before judgment. Neither the state nor its
25 agencies or subdivisions shall be liable to pay a claim or a
26 judgment by any one person which exceeds the sum of \$100,000
27 or any claim or judgment, or portions thereof, which, when
28 totaled with all other claims or judgments paid by the state
29 or its agencies or subdivisions arising out of the same
30 incident or occurrence, exceeds the sum of \$200,000. However,
31 a judgment or judgments may be claimed and rendered in excess

1 of these amounts and may be settled and paid pursuant to this
2 act up to \$100,000 or \$200,000, as the case may be; and that
3 portion of the judgment that exceeds these amounts may be
4 reported to the Legislature, but may be paid in part or in
5 whole only by further act of the Legislature. Notwithstanding
6 the limited waiver of sovereign immunity provided herein, the
7 state or an agency or subdivision thereof may agree, within
8 the limits of insurance coverage provided or within the limits
9 of a self-insurance fund, to settle a claim made or a judgment
10 rendered against it without further action by the Legislature,
11 but the state or agency or subdivision thereof shall not be
12 deemed to have waived any defense of sovereign immunity or to
13 have increased the limits of its liability in excess of the
14 \$100,000 waiver or \$200,000 waiver as a result of its
15 obtaining insurance coverage, providing self-insurance, or
16 participating in any other risk-management program authorized
17 in subsection (15)~~for tortious acts in excess of the \$100,000~~
18 ~~or \$200,000 waiver provided above.~~ The limitations of
19 liability set forth in this subsection shall apply to the
20 state and its agencies and subdivisions whether or not the
21 state or its agencies or subdivisions possessed sovereign
22 immunity before July 1, 1974.

23 Section 2. This act shall take effect July 1, 2001.

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25 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
26 COMMITTEE SUBSTITUTE FOR
27 SB 316

28 Redrafts the bill's language to effectuate its intent to
29 authorize a government entity to settle a tort claim or
30 judgment within the limits of its self-insurance without
31 legislative authorization.