

By the Committee on Finance and Taxation; and Senator Lawson

314-1816-02

1                                   A bill to be entitled  
2           An act relating to the City of Hialeah;  
3           providing for the relief of Jose Pena, as  
4           Personal Representative of the Estate of Carmen  
5           Pena, deceased, and individually, as surviving  
6           father of Katherine Pena and Richard Pena,  
7           deceased minor children of Carmen Pena and Jose  
8           Pena; providing for the relief of Johannes  
9           Pena, surviving son of Carmen Pena; providing  
10          for an appropriation to compensate them for the  
11          death of Carmen Pena, Katherine Pena, and  
12          Richard Pena as a result of the negligence of  
13          the City of Hialeah; providing an effective  
14          date.

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16           WHEREAS, on October 21, 1990, Carmen Pena was driving  
17          her family car on West 68th Street, near West 26th Drive in  
18          the City of Hialeah, and

19           WHEREAS, riding as passengers in Carmen Pena's car on  
20          October 21, 1990, were 6-year old Katherine Pena, minor child  
21          of Carmen Pena and Jose Pena, 12-year old Richard Pena, minor  
22          child of Carmen Pena and Jose Pena, 16-year old Johannes Pena,  
23          minor child of Carmen Pena and Jose Pena, and Jose Pena,  
24          ex-husband of Carmen Pena and father of minor children  
25          Katherine Pena, Richard Pena, and Johannes Pena, and

26           WHEREAS, on October 21, 1990, the vehicle being driven  
27          by Carmen Pena left the roadway on which she was traveling and  
28          hit a dangerously large drop-off as she was attempting to  
29          return to the road, which caused Carmen Pena to lose control  
30          of her vehicle and veer into a canal, and

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1           WHEREAS, as a result of the accident, Carmen Pena,  
2 Katherine Pena, and Richard Pena were killed, and

3           WHEREAS, on July 15, 1991, a complaint was filed on  
4 behalf of the Estates of Carmen Pena, Katherine Pena, and  
5 Richard Pena, and on behalf of the surviving father, Jose  
6 Pena, and on behalf of the surviving son, Johannes Pena, and

7           WHEREAS, in the complaint, the City of Hialeah was  
8 charged with failing to properly inspect and maintain the  
9 roadway and shoulder of the roadway, allowing a large and  
10 dangerous drop-off to occur on the shoulder, and

11           WHEREAS, on October 28, 1994, the jury returned a  
12 verdict against the City of Hialeah finding the City of  
13 Hialeah to be 75 percent negligent and Carmen Pena to be 25  
14 percent negligent, and

15           WHEREAS, final judgments were entered for Johannes Pena  
16 in the amount of \$187,500 for the loss of his mother, Carmen  
17 Pena; for Jose Pena in the amount of \$78,395.84 for the loss  
18 of his daughter, Katherine Pena; for Jose Pena in the amount  
19 of \$242,199.65 for the loss of his son, Richard Pena; and for  
20 Jose Pena in the amount of \$784,570.04 for the Estate of  
21 Carmen Pena, and

22           WHEREAS, the total amount of the final judgments is  
23 \$1,292,665.53, and

24           WHEREAS, costs were awarded in the amount of \$8,395.61,  
25 and

26           WHEREAS, the total amount of the net final judgment is  
27 \$1,301,061.14, and

28           WHEREAS, the City of Hialeah has paid \$200,000 in  
29 accordance with the limits set forth in section 768.28,  
30 Florida Statutes, leaving an unpaid judgment in the amount of  
31 \$1,101,061.14, NOW, THEREFORE,

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

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3 Section 1. The facts stated in the preamble to this  
4 act are found and declared to be true.

5 Section 2. The City of Hialeah is authorized and  
6 directed to appropriate from funds of the city not otherwise  
7 appropriated and to draw a warrant payable to Jose Pena, as  
8 Personal Representative of the Estate of Carmen Pena, for the  
9 total amount of \$592,965.65, for injuries and damages  
10 sustained due to the death of Carmen Pena.

11 Section 3. The City of Hialeah is authorized and  
12 directed to appropriate from funds of the city not otherwise  
13 appropriated and to draw a warrant payable to Jose Pena,  
14 individually, for the total amount of \$320,595.49 for injuries  
15 and damages sustained due to the death of his daughter,  
16 Katherine Pena, a minor, and his son, Richard Pena, a minor.

17 Section 4. The City of Hialeah is authorized and  
18 directed to appropriate from funds of the city not otherwise  
19 appropriated and to draw a warrant payable to Johammes Pena,  
20 surviving son of Carmen Pena, for the total amount of \$187,500  
21 for injuries and damages sustained due to the death of his  
22 mother, Carmen Pena, due to the negligence of the City of  
23 Hialeah.

24 Section 5. This act shall take effect upon becoming a  
25 law.

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27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
28 COMMITTEE SUBSTITUTE FOR  
29 SB 32

30 This committee substitute removes a reference to statutory  
31 attorney's fees and costs, in conformance with the Legislative  
Claim Bill Manual.