

By Representative Byrd

1 A bill to be entitled
 2 An act relating to boards of trustees of state
 3 universities; amending s. 766.112, F.S.;
 4 prescribing applicability of provisions
 5 relating to comparative fault with respect to
 6 medical malpractice to boards of trustees;
 7 amending s. 768.28, F.S.; providing for venue
 8 of actions brought against boards of trustees;
 9 providing for applicability of provisions
 10 relating to waiver of sovereign immunity to
 11 boards of trustees; amending s. 626.852, F.S.;
 12 providing for the inapplicability of certain
 13 provisions relating to insurance adjusters to
 14 employees and agents of boards of trustees;
 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. Subsection (2) of section 766.112, Florida
 20 Statutes, is amended to read:

21 766.112 Comparative fault.--

22 (2) In an action for damages for personal injury or
 23 wrongful death arising out of medical malpractice, whether in
 24 contract or tort, when an apportionment of damages pursuant to
 25 s. 768.81 is attributed to a the board of trustees of a state
 26 university Regents, the court shall enter judgment against the
 27 board of trustees Regents on the basis of the board's such
 28 party's percentage of fault and not on the basis of the
 29 doctrine of joint and several liability. The sole remedy
 30 available to a claimant to collect a judgement or settlement
 31 against a board of trustees damages, subject to the provisions

1 of this subsection, ~~against the Board of Regents~~ shall be
2 pursuant to s. 768.28.

3 Section 2. Subsections (1) and (2) of section 768.28,
4 Florida Statutes, are amended to read:

5 768.28 Waiver of sovereign immunity in tort actions;
6 recovery limits; limitation on attorney fees; statute of
7 limitations; exclusions; indemnification; risk management
8 programs.--

9 (1) In accordance with s. 13, Art. X of the State
10 Constitution, the state, for itself and for its agencies or
11 subdivisions, hereby waives sovereign immunity for liability
12 for torts, but only to the extent specified in this act.
13 Actions at law against the state or any of its agencies or
14 subdivisions to recover damages in tort for money damages
15 against the state or its agencies or subdivisions for injury
16 or loss of property, personal injury, or death caused by the
17 negligent or wrongful act or omission of any employee of the
18 agency or subdivision while acting within the scope of the
19 employee's office or employment under circumstances in which
20 the state or such agency or subdivision, if a private person,
21 would be liable to the claimant, in accordance with the
22 general laws of this state, may be prosecuted subject to the
23 limitations specified in this act. Other than an action
24 against a state university board of trustees, which must be
25 brought in the county in which that university's main campus
26 is located or in which it maintains a substantial presence for
27 the transaction of its customary business, any such action may
28 be brought in the county where the property in litigation is
29 located or, if the affected agency or subdivision has an
30 office in such county for the transaction of its customary
31 business, where the cause of action accrued.

1 (2) As used in this act, "state agencies or
2 subdivisions" include the executive departments, the
3 Legislature, the judicial branch (including public defenders),
4 and the independent establishments of the state, including
5 state university boards of trustees; counties and
6 municipalities; and corporations primarily acting as
7 instrumentalities or agencies of the state, counties, or
8 municipalities, including the Spaceport Florida Authority.

9 Section 3. Subsection (5) of section 626.852, Florida
10 Statutes, is amended to read:

11 626.852 Scope of this part.--

12 (5) This part does not apply to any employee or agent
13 of a state university ~~the board of trustees~~ ~~Regents~~ providing
14 services in support of any self-insurance program adopted
15 under s. 1004.24 ~~by such Board of Regents~~.

16 Section 4. The amendments to ss. 766.112(2) and
17 768.28(1) and (2), Florida Statutes, as provided in this act,
18 shall apply to actions filed on or after July 1, 2002.

19 Section 5. If any law amended by this act was also
20 amended by a law enacted during the 2002 Regular Session of
21 the Legislature, such laws shall be construed to have been
22 enacted during the same session of the Legislature and full
23 effect shall be given to each if possible.

24 Section 6. This act shall take effect July 1, 2002.
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HOUSE SUMMARY

Provides for revisions in provisions of law with respect to boards of trustees of state universities to provide for the applicability of provisions relating to comparative fault with respect to medical malpractice to boards of trustees, to provide venue in actions brought against boards of trustees, to provide applicability of provisions relating to waiver of sovereign immunity to boards of trustees, and to provide for the inapplicability of described provisions relating to insurance adjusters to employees and agents of a board of trustees.