

By Senator Bennett

21-272-03

1 A bill to be entitled
2 An act relating to the Indian River County
3 School Board; providing for the relief of Debra
4 Smith, Pamela Hughes, Michael Truitt, and
5 Charles Hughes; authorizing and directing the
6 Indian River County School Board to compensate
7 them for the death of their father, Sammie Lee
8 Hughes, due to the negligence of the school
9 board; providing for the relief of Amanda
10 Johnson, a minor, and her parents and natural
11 guardians, for injuries sustained due to the
12 negligence of the Indian River County School
13 Board; providing for the use of such funds;
14 providing for the relief of Taylor Rosemond, a
15 minor, and her parents and natural guardians,
16 Alvin and Shirley Rosemond, for injuries
17 sustained due to the negligence of the Indian
18 River County School Board; providing for the
19 use of such funds; providing for the relief of
20 Michelle O'Halloran; requiring the county to
21 compensate her for injuries and damages to her
22 children, Clay Haywood and Tatiana Haywood,
23 caused by the negligence of the Indian River
24 County School Board; providing for the relief
25 of Tylor Griffeth, a minor, by and through Mark
26 Griffeth and Teresa Griffeth, his parents and
27 natural guardians; directing the school board
28 to compensate Tylor Griffeth for personal
29 injuries caused by the negligence of the school
30 board; specifying uses of the funds; providing
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1 for attorney's fees and costs; providing an
2 effective date.

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4 WHEREAS, on Monday, January 25, 1999, at approximately
5 3:30 p.m., a school bus driver employed by the Indian River
6 County School District ran a stop sign at the intersection of
7 45th Street and 66th Avenue and collided with a
8 tractor-trailer truck driven by Sammie Lee Hughes, and

9 WHEREAS, the impact sent the truck careening into a
10 drainage ditch, killing Mr. Hughes, and

11 WHEREAS, as a result of the collision, one student also
12 died and 15 others were injured, and several of the injured
13 parties filed legal actions, and

14 WHEREAS, Debra Smith and Pamela Hughes, as co-personal
15 representatives of the estate of Sammie Lee Hughes, filed suit
16 in the Circuit Court of the 19th Judicial Circuit in and for
17 Indian River County, Florida (Case Number 99-0656-CA-10), and

18 WHEREAS, in a final judgment dated February 20, 2002,
19 the court awarded the sum of \$75,000 to Debra Smith, \$75,000
20 to Pamela Hughes, \$75,000 to Michael Truitt, and \$100,000 to
21 Charles Hughes, plus costs in the amount of \$530.72, for a
22 total sum of \$325,530.72, and

23 WHEREAS, the maximum amount that may be awarded under
24 section 768.28, Florida Statutes, has already been paid to
25 other plaintiffs for injuries suffered as a result of this
26 incident, and

27 WHEREAS, recovery by Mr. Hughes's estate of the amounts
28 set forth in this act may be obtained only through the Florida
29 Legislature's passage of a claim bill awarding such sums, and

30 WHEREAS, as a result of the same accident, 7-year-old
31 Amanda Johnson was hospitalized for 11 days, was transferred

1 to a rehabilitation center where she remained as an in-patient
2 for an additional 7 days, and was discharged and received
3 home-health services for 240 days, and

4 WHEREAS, on May 25, 1999, Amanda Johnson was again
5 hospitalized and after a pre-operative diagnosis of
6 hypertrophic nonunion of the left femoral shaft, she
7 subsequently underwent a second surgery, receiving
8 open-compression plating of the left femoral hypertrophic
9 nonunion, with bone biopsy and culture, and

10 WHEREAS, Amanda Johnson, as a result of the injury, has
11 a left femoral overgrowth, resulting in a limb-length
12 discrepancy that had increased to 2.2 centimeters by February
13 5, 2002, and

14 WHEREAS, Amanda Johnson currently must use a 1/2-inch
15 shoe lift and may require future epiphysiodesis of the
16 elongated left femur, and

17 WHEREAS, Amanda Johnson is receiving continuing medical
18 care following the injury, and

19 WHEREAS, Amanda Johnson has incurred medical expenses
20 totaling \$85,762.53, will require future orthopedic visits,
21 and may require future surgery, hospitalization, and physical
22 therapy, and

23 WHEREAS, as a result of a suit filed following the
24 collision, the Indian River County School Board admitted
25 liability for the collision, and, following mediation on
26 February 27, 2002, the parties agreed to a final settlement of
27 all claims in exchange for the payment of \$287,500 to be paid
28 in four annual installments, and

29 WHEREAS, as part of the settlement, the Indian River
30 County School Board agreed that following the submission and
31 approval of the settlement at a noticed school-board meeting,

1 the board will join Amanda Johnson in the submission of a
2 claim bill to the Legislature, and

3 WHEREAS, 7-year-old Taylor Rosemond was also injured in
4 the collision and was taken by ambulance to a local hospital
5 and thence airlifted to Arnold Palmer Children's Hospital in
6 Orlando, and

7 WHEREAS, Taylor Rosemond was diagnosed with a lacerated
8 kidney, bruised liver, and right renal laceration, and

9 WHEREAS, Taylor Rosemond's injuries resulting from the
10 negligence of the school bus operator have caused her bodily
11 injury and permanent pain and suffering, disability,
12 disfigurement, mental anguish, loss of capacity for the
13 enjoyment of life, hospitalization expenses, nursing care
14 expenses, medical expenses, loss of earnings and capacity to
15 earn, and aggravation of previously existing conditions, and

16 WHEREAS, Taylor Rosemond's injuries have caused her
17 parents lost income, permanent loss of support and services,
18 and expenses for medical care, psychiatric care,
19 hospitalization care, and nursing care for their daughter, and

20 WHEREAS, suit was filed in Indian River County
21 following the collision, and prior to trial the case was
22 settled in the amount of \$60,000, and

23 WHEREAS, the Indian River County School Board has
24 agreed to support a claim bill to compensate Taylor Rosemond,
25 and

26 WHEREAS, on January 25, 1999, Clay Haywood and Tatiana
27 Haywood were also passengers in the school bus that was
28 involved in this collision, and

29 WHEREAS, as a result of the collision, 11-year-old Clay
30 Haywood sustained numerous severe traumatic injuries requiring

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1 multiple surgeries and was unable to attend school or engage
2 in any normal daily activities for many months, and

3 WHEREAS, as a result of the injuries he suffered in the
4 collision, Clay has incurred medical expenses totaling
5 \$88,867.47 and will incur medical expenses in the future,
6 including \$3,300 in dental expenses, and

7 WHEREAS, as a result of the collision, 9-year-old
8 Tatiana Haywood sustained multiple facial lacerations,
9 multiple extremity lacerations, and multiple contusions about
10 the body which will require revision surgery when she has
11 completed the majority of her growth, and

12 WHEREAS, as a result of the injuries she suffered in
13 the collision, Tatiana has been left with permanent scarring,
14 has incurred medical expenses totaling \$3,225.75, and will
15 incur medical expenses in the future, and

16 WHEREAS, the Indian River County School Board admitted
17 liability for the collision and has agreed to a court-ordered
18 mediation settlement of all claims of Clay Haywood and Tatiana
19 Haywood in the amount of \$225,000, payable by the school board
20 in 3 annual installments of \$75,000, and

21 WHEREAS, on January 25, 1999, 6-year-old Tylor Griffeth
22 was riding home from his elementary school in the school bus
23 that hit the tractor-trailer, and

24 WHEREAS, after the accident, Tylor was treated at the
25 scene, was later taken by ambulance to Sebastian River Medical
26 Center, and subsequently was transferred to the trauma center
27 at Holmes Regional Medical Center in Melbourne, Florida, and

28 WHEREAS, his admission diagnosis was a closed-head
29 injury with diplopia (double vision), as well as back and
30 forehead abrasions, and his discharge diagnosis was a possible
31 concussion, and

1 WHEREAS, Tylor's general physician provided followup
2 care and later referred Tylor to physical therapy to reduce
3 his cervical pain and headaches and to the Bascom Palmer Eye
4 Institute for ongoing visual problems, and

5 WHEREAS, Dr. Brad Simmons of the eye institute
6 diagnosed a sixth-nerve palsy in Tylor's left eye secondary to
7 trauma, and a subsequent examination again demonstrated an
8 abduction deficit in the left eye, and

9 WHEREAS, Tylor underwent a second evaluation, performed
10 by Dr. Paul Carney of the Neurology Department at Shands
11 Teaching Hospital, because of his history of a concussion with
12 continuing visual problems and his complaints that objects
13 appeared smaller in the left eye and that he was experiencing
14 problems focusing and having occasional headaches, and

15 WHEREAS, Dr. Carney diagnosed a post-concussive
16 syndrome for which he recommended monitoring in the future,
17 and

18 WHEREAS, as a result of Tylor's injuries, his parents
19 incurred \$14,813.71 in medical bills, and Mrs. Griffeth lost a
20 considerable amount of time from her employment to care for
21 her son and take him to doctors' appointments, and

22 WHEREAS, more than 3 years after the accident, Tylor is
23 still experiencing symptoms from his injuries which are
24 indicative of the permanent nature of his condition, and

25 WHEREAS, the Indian River County School Board was
26 placed on the appropriate statutory notice, and a lawsuit was
27 filed on April 16, 2001, and

28 WHEREAS, the school board has already paid the
29 statutory limit under section 768.28, Florida Statutes, for
30 claims or judgments arising out of the same incident or
31 occurrence, and

1 WHEREAS, the attorneys for the parties performed
2 appropriate discovery, which resulted in an agreement whereby
3 the Indian River County School Board agreed to pay Mark
4 Griffeth and Teresa Griffeth, as parents and natural guardians
5 of Tylor Griffeth, \$40,000 subject to a successful claim bill,
6 NOW, THEREFORE,

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

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

12 Section 2. The Indian River County School Board is
13 authorized and directed to appropriate from funds not
14 otherwise appropriated and to draw a warrant payable to Debra
15 Smith for the total amount of \$75,000 for injuries and damages
16 sustained due to the death of her father, Sammie Lee Hughes.

17 Section 3. The Indian River County School Board is
18 authorized and directed to appropriate from funds not
19 otherwise appropriated and to draw a warrant payable to Pamela
20 Hughes for the total amount of \$75,000 for injuries and
21 damages sustained due to the death of her father, Sammie Lee
22 Hughes.

23 Section 4. The Indian River County School Board is
24 authorized and directed to appropriate from funds not
25 otherwise appropriated and to draw a warrant payable to
26 Michael Truitt for the total amount of \$75,000 for injuries
27 and damages sustained due to the death of his father, Sammie
28 Lee Hughes.

29 Section 5. The Indian River County School Board is
30 authorized and directed to appropriate from funds not
31 otherwise appropriated and to draw a warrant payable to

1 Charles Hughes for the total amount of \$100,000 for injuries
2 and damages sustained due to the death of his father, Sammie
3 Lee Hughes.

4 Section 6. The Indian River County School Board is
5 authorized and directed to appropriate from funds not
6 otherwise appropriated and to draw a warrant payable to Debra
7 Smith and Pamela Hughes, as co-personal representatives of the
8 estate of Sammie Lee Hughes, for the total amount of \$530.72
9 for costs incurred in Case Number 99-0656-CA-10 in the Circuit
10 Court of the 19th Judicial Circuit in and for Indian River
11 County, Florida.

12 Section 7. The Indian River County School Board is
13 authorized and directed to compensate Amanda Johnson, in the
14 total amount of \$287,500, payable over a 4-year period in
15 equal installments of \$71,875 each, the first payment to be
16 made on the effective date of this act. The funds designated
17 for the benefit of Amanda Johnson shall be used to pay
18 statutory fees, costs, outstanding medical liens, and for her
19 other immediate needs, and the remaining funds shall be placed
20 into a special needs trust created for the exclusive use and
21 benefit of Amanda Johnson. Any funds remaining in the special
22 needs trust at Amanda Johnson's death, after payment of any
23 outstanding medical liens, shall revert to the Indian River
24 County School Board.

25 Section 8. The Indian River County School Board is
26 authorized and directed to compensate Alvin and Shirley
27 Rosemond, the parents and natural guardians of Taylor
28 Rosemond, in the amount of \$50,000 for the benefit of Taylor
29 Rosemond, out of funds of the Indian River County School Board
30 not otherwise appropriated. The funds designated for the
31 benefit of Taylor Rosemond shall be used to pay statutory

1 fees, costs, and outstanding medical liens, and to pay for her
2 other immediate needs, and the remaining funds shall be placed
3 into a special needs trust created for the exclusive use and
4 benefit of Taylor Rosemond. Any funds remaining in the special
5 needs trust at Taylor Rosemond's death, after payment of any
6 outstanding medical liens, shall revert to the Indian River
7 County School Board.

8 Section 9. The Indian River County School Board is
9 authorized and directed to appropriate from funds not
10 otherwise appropriated and to draw three annual warrants in
11 the amount of \$75,000 each, for a total settlement of
12 \$225,000, payable to Michelle O'Halloran, as compensation for
13 the injuries and damages sustained by her children Clay
14 Haywood and Tatiana Haywood due to the negligence of the
15 Indian River County school bus driver. The funds designated
16 for the benefit of Clay Haywood and Tatiana Haywood shall be
17 used to pay statutory fees, costs, and outstanding medical
18 liens, and to pay for their other immediate needs, and the
19 remaining funds shall be placed into a special needs trust
20 created for the exclusive use and benefit of Clay Haywood and
21 a special needs trust created for the exclusive use and
22 benefit of Tatiana Haywood. Any funds remaining in Clay
23 Haywood's special needs trust at the time of Clay's death,
24 after payment of any outstanding medical liens, shall revert
25 to the Indian River County School Board. Likewise, any funds
26 remaining in Tatiana Haywood's special needs trust at
27 Tatiana's death, after payment of any outstanding medical
28 liens, shall revert to the Indian River County School Board.

29 Section 10. The Indian River County School Board is
30 directed to compensate Mark Griffeth and Teresa Griffeth, as
31 parents and natural guardians of Tylor Griffeth, a minor, in

1 the amount of \$40,000 for injuries and damages caused by the
2 negligence of the school board. After payment of statutory
3 attorney's fees and costs, the balance shall be paid into a
4 special needs trust established for Tylor Griffeth. Any funds
5 remaining in the special needs trust at Tylor Griffeth's
6 death, after payment of any outstanding medical liens, shall
7 revert to the Indian River County School Board.

8 Section 11. This act shall take effect upon becoming a
9 law.

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