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A bill to be entitled
 An act relating to the South Florida Water Management District; providing for the relief of Brian Daiagi; authorizing and directing the South Florida Water Management District to compensate Mr. Daiagi for personal injuries that he suffered due to the negligence of the South Florida Water Management District; providing an effective date.

WHEREAS, on the morning of August 10, 1992, Brian Daiagi, a 20-year-old single resident of Broward County was traveling on a dirt bike, westbound on the shoulder of Griffin Road with Richard Truntz, an off-duty police officer with the Hollywood Police Department, who was also on a dirt bike, and

WHEREAS, across the shoulder of the road, hidden in tall grass and unbeknownst to both of them, was a drainage culvert that ran perpendicular to and across the shoulder of the road on which they were traveling, and

WHEREAS, this drainage culvert that was placed on land owned by the South Florida Water Management District had been there for many years and, at one point, Bell South was to have erected a security fence around the drainage culvert, having obtained permission to lay telephone cables on the road shoulder, but Bell South ultimately failed to erect the security fence, and

WHEREAS, despite having notice that the security fence had not been erected, the South Florida Water Management District did not act to protect or warn of the hidden drainage culvert, and



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30 WHEREAS, on August 10, 1992, at approximately 3:00 p.m.,
31 when the two riders were returning to Brian Daiagi's home,
32 Richard Truntz was unable to get his dirt bike out of first gear
33 and could ride only very slowly and suggested that Brian ride
34 ahead and meet later at Mr. Daiagi's house, and

35 WHEREAS, while wearing a helmet and full protective gear
36 and traveling at approximately 25 m.p.h., Brian Daiagi drove his
37 dirt bike into the hidden drainage culvert, and

38 WHEREAS, Mr. Daiagi had never ridden his dirt bike in the
39 area where the accident occurred, and had moved to this western
40 area of Broward County approximately 3 weeks prior to the
41 accident, and

42 WHEREAS, the drainage culvert cannot be seen with the naked
43 eye and was completely obscured by long grass along the road,
44 and

45 WHEREAS, the South Florida Water Management District is
46 responsible for cutting the grass in this area, and

47 WHEREAS, testimony at the trial of the case indicated that
48 the grass was at least "knee high" and obscured the culvert from
49 ordinary view, and Richard Truntz testified that he would have
50 also driven into the culvert except for the fact that he was
51 traveling in first gear and was able to stop 2 feet short of the
52 culvert by breaking hard, and

53 WHEREAS, the South Florida Water Management District
54 acknowledged during the trial that it had knowledge that
55 "passers-by" used the road shoulder and took the position that
56 Brian Daiagi was "an invitee" on the premises, and

57 WHEREAS, Brian Daiagi sustained a crush fracture to his
58 spine, was rendered a paraplegic as a result of the incident,
59 was paralyzed from the waist down, and, according to Dr. Barth



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60 Green who treated Mr. Daiagi for his injuries, will always be
61 confined to a wheelchair within a reasonable degree of medical
62 probability, and

63 WHEREAS, the specific injuries include a T10-T11 fracture
64 with complete paraplegia below the navel; comminuted fracture of
65 the vertebrae at T11; multiple fractures of the spine at L1, L2,
66 L3, and L4; posttraumatic stress disorder; depression; pain
67 secondary to the spinal cord injury; bowel dysfunction;
68 nonfunctioning bladder that requires 24-hour catheterization;
69 and complete sexual impotence, and

70 WHEREAS, there was no testimony that Brian Daiagi was
71 speeding at the time of the accident and the South Florida Water
72 Management District claimed that Mr. Daiagi was not looking
73 where he was going, and

74 WHEREAS, the trial court allowed the jury to visit the
75 scene of the accident and the jury agreed by their verdict that
76 the drainage culvert was completely obscured and could not be
77 seen and, at the time the jury visited the site, the grass was
78 above knee level, and

79 WHEREAS, an engineer and accident reconstructionist who was
80 called by Mr. Daiagi as an expert witness testified that Mr.
81 Daiagi's speed, based upon where he was found on the other side
82 of the culvert, was approximately 25.6 m.p.h., requiring 90 feet
83 in which to stop, at which distance Mr. Daiagi could not have
84 seen the culvert, and

85 WHEREAS, at the time of the accident, Mr. Daiagi was
86 working in a jewelry store and is now 30 years of age and lives
87 in western Broward County, and

88 WHEREAS, a verdict was rendered in the case on September
89 29, 2000, finding that the South Florida Water Management



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90 District was 80 percent negligent in causing the injuries
 91 sustained by Brian Daiagi, and awarding damages totaling
 92 \$4,344,000, which took into account a finding of 20 percent
 93 comparative negligence by Mr. Daiagi, and

94 WHEREAS, the verdict was later reduced by the trial court
 95 due to collateral source payments pursuant to health insurance,
 96 resulting in an amended final judgment entered by the trial
 97 court on May 10, 2001, in the amount of \$4,008,616.63, and

98 WHEREAS, the South Florida Water Management District
 99 appealed the verdict to the Fourth District Court of Appeals and
 100 the verdict was upheld in a unanimous opinion by the appellate
 101 court on July 17, 2002, Case Number 4D01-1918, NOW, THEREFORE,

102

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

104

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

107 Section 2. The South Florida Water Management District is
 108 authorized and directed to appropriate from funds of the county
 109 not otherwise appropriated and to draw a warrant in the amount
 110 of \$4,008,616.63, payable to Brian Daiagi to compensate him for
 111 personal injuries and damages suffered as a result of the
 112 negligence of the South Florida Water Management District.

113 Section 3. This act shall take effect upon becoming a law.