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HB 0799

2003 Legislature

A bill to be entitled

An act relating to Brevard County; providing for the relief of Howard S. Evarts and his wife, Donna Evarts; authorizing and directing the Brevard County Board of County Commissioners to compensate them for personal injuries suffered by Howard S. Evarts in an automobile accident caused by an employee of Brevard County; providing an effective date.

WHEREAS, on June 18, 1998, Howard S. Evarts was the driver of a vehicle that was struck from the rear by a passenger bus moving at approximately 45 miles per hour which was owned by the Brevard County Board of County Commissioners, and

WHEREAS, the vehicle in which Howard S. Evarts was traveling was appropriately stopped in the lane of travel waiting to make a left-hand turn, and

WHEREAS, at the time of the accident, Howard S. Evarts was an independent contractor and was without personal resources for medical insurance, other than nominal personal injury protection, to adequately care for the injuries he suffered as a result of the accident, and

WHEREAS, Howard S. Evarts suffered injuries to his cervical spine, his thoracic spine, and his lumbar spine, and

WHEREAS, it is anticipated that Howard S. Evarts will require surgery in the future and will need to change his vocation in order to continue to support himself and his wife, and

WHEREAS, on November 30, 2000, a consent judgment was entered following Howard S. Evarts and Brevard County entering



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into a stipulated judgment in Case Number 05-1999-CA-025509-XXXX-XX, in the amount of \$125,000, and

WHEREAS, Howard S. Evarts is one of five persons who have made claims relating to this accident, and

WHEREAS, Brevard County has expended \$101,410 in the settlement of the case of Porter v. Brevard County, a case arising out of the same accident, has paid other expenses for property damage resulting from the same accident, and has only \$98,590 remaining to divide between Howard S. Evarts and Donna Evarts and another plaintiff in the case, Alan S. Hammer, and

WHEREAS, Howard S. Evarts and Alan S. Hammer agreed to divide the remaining amount of \$98,590 between themselves, and

WHEREAS, Howard S. Evarts received \$49,295, half of the \$98,590 remaining from the \$200,000 amount that is the county's statutory limit of liability pursuant to s. 768.28, Florida Statutes, and

WHEREAS, from the payment of \$49,295, Howard S. Evarts received the net amount of \$18,658.87 after payment of costs, medical and hospital expenses, and attorney's fees, and

WHEREAS, the Brevard County Board of County Commissioners agree that the damages sustained by Howard S. Evarts exceed the portion that remains from the amount constituting the county's statutory limit of liability under s. 768.28, Florida Statutes, and

WHEREAS, the Brevard County Board of County Commissioners and Howard S. Evarts agreed that Mr. Evarts would seek to recover the difference between \$125,000, the amount of the stipulated judgment, and \$49,295, the amount Mr. Evarts actually received, through a claim bill, and



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WHEREAS, the Brevard County Board of County Commissioners has agreed that it would not oppose passage of the claim bill and would support such a bill, NOW, THEREFORE,

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

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

Section 2. The Brevard County Board of County Commissioners is authorized and directed to appropriate from funds of the county not otherwise appropriated and to draw a warrant in the amount of \$75,705, payable to Howard S. Evarts and his wife, Donna Evarts, to compensate them for personal injuries and damages suffered by Howard S. Evarts as a result of the negligence of Brevard County.

Section 3. This act shall take effect July 1, 2003.