

1 school health services, with or without compensation, is,
2 solely with respect to such services, an agent of the state
3 for purposes of s. 768.28., and as part of a school nurse
4 ~~services public private partnership, is deemed to be a~~
5 ~~corporation acting primarily as an instrumentality of the~~
6 ~~state solely for the purpose of limiting liability pursuant to~~
7 ~~s. 768.28(5). The limitations on tort actions contained in s.~~
8 ~~768.28(5) shall apply to any action against the entity with~~
9 ~~respect to the provision of school health services, if the~~
10 ~~entity is acting within the scope of and pursuant to~~
11 ~~guidelines established in the contract or by rule of the~~
12 ~~department. The contract must require the entity, or the~~
13 ~~partnership on behalf of the entity, to obtain general~~
14 ~~liability insurance coverage, with any additional endorsement~~
15 ~~necessary to insure the entity for liability assumed by its~~
16 ~~contract with the department. The Legislature intends that~~
17 ~~insurance be purchased by entities, or by partnerships on~~
18 ~~behalf of the entity, to cover all liability claims, and under~~
19 ~~no circumstances shall the state or the department be~~
20 ~~responsible for payment of any claims or defense costs for~~
21 ~~claims brought against the entity or its subcontractor for~~
22 ~~services performed under the contract with the department.~~
23 ~~This subsection does not preclude consideration by the~~
24 ~~Legislature for payment by the state of any claims bill~~
25 ~~involving an entity contracting with the department pursuant~~
26 ~~to this section.~~

27 Section 3. Section 381.0058, Florida Statutes, is
28 created to read:

29 381.0058 Matching funds for school nurse services;
30 public-private partnerships.--

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1 (1) It is the intent of the Legislature that matching
2 funds, in addition to those provided under s. 381.0056 for the
3 School Health Services Act and s. 381.0057 for school health
4 services funding, be provided in those communities where
5 interest in school health services is evidenced by the
6 participation of public or private entities in the funding or
7 delivery of school nurse services. The purpose of this funding
8 is to encourage the development of those programs that offer
9 the greatest potential for promoting the health of students,
10 increasing the availability of and access to nurses in the
11 school setting, and fostering greater community participation
12 in the delivery of school nurse services. Matching funds shall
13 be available specifically for implementing the programs
14 described in ss. 381.0056, 381.0057, and 402.3026 which are
15 designed to meet the particular needs of the community.
16 Further, it is the intent of the Legislature that
17 tobacco-settlement revenue be used to pay for health and human
18 services for children.

19 (2) The Secretary of Health, or his or her designee,
20 in cooperation with the Commissioner of Education, or his or
21 her designee, shall publicize the availability of matching
22 funds for public and private entities committed to enhancing
23 the availability of school nurse services, as reflected in
24 formal agreements that are part of the local school health
25 services plan.

26 (3) The Secretary of Health, or his or her designees,
27 in cooperation with the Commissioner of Education, or his or
28 her designees, in equal representation, shall form a committee
29 to determine the eligibility of sites to receive matching
30 funds.

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1 (4) Any community that seeks to receive state matching
2 funds under this section must submit a proposal to the
3 committee established in subsection (3). The proposal must
4 state the goals of the program, provide specific plans for
5 enhancing local resources available for school nurse services,
6 and describe all of the health services to be made available
7 to students from matching funds provided under this section. A
8 county health department or school district that receives
9 matching funds may not supplant more than 50 percent of the
10 current local contributions to school health services funding,
11 as documented in the local school health services plan.

12 (5) In addition to the merits of a proposal, the award
13 of matching funds must be based on those proposals from sites
14 that include county health departments and school districts
15 that most closely meet the following criteria:

16 (a) Have evidence of a comprehensive inservice staff
17 development plan.

18 (b) Have evidence of a cooperative working
19 relationship between the county health department and the
20 school district and have community, as well as parental,
21 support.

22 (c) Have a high percentage of subsidized school
23 lunches.

24 (d) Have a high incidence of medically underserved
25 high-risk children, low-birthweight babies, infant mortality,
26 or teenage pregnancy.

27 (e) Have a high incidence of children who have chronic
28 health conditions or high-risk behavioral problems.

29 (f) Have documented in the local school health
30 services plan a commitment from community entities to fund or
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1 provide other direct resources for the enhanced availability
2 of school health services.

3 (g) Have a plan to ensure billing for Medicaid funding
4 for services rendered under the certified school match program
5 or the county health department certified match program as
6 specified in s. 409.9122.

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8 Although these criteria are part of the proposal review
9 process, they are not to be construed as the sole factors to
10 be considered in the proposal review process. A site's ability
11 to address, and interest in addressing, locally identified
12 needs and priorities must also be considered. In addition,
13 receipt of matching funds is not intended to diminish a site's
14 eligibility for base funding for school health services.

15 Section 4. Subsection (21) is added to section 768.28,
16 Florida Statutes, to read:

17 768.28 Waiver of sovereign immunity in tort actions;
18 recovery limits; limitation on attorney fees; statute of
19 limitations; exclusions; indemnification; risk management
20 programs.--

21 (21)(a) A health care provider, or any employee or
22 agent of a health care entity, who has contractually agreed to
23 act on behalf of the state as an agent of the Department of
24 Health to provide school health services as specified in a
25 school health services plan developed under s. 381.0056, with
26 or without compensation, is, solely with respect to such
27 services, an agent of the state for purposes of this section
28 while acting within the scope of his or her license, acting
29 under the supervision of the county health department, and
30 acting pursuant to guidelines established in the school health
31 services plan. For purposes of this subsection, the

1 partnership agreements documented in the school health
2 services plan developed by the county health department and
3 district school board under s. 381.0056, including related
4 contracts and memoranda of agreement, constitute a contract.
5 Such a contract must provide for the indemnification of the
6 state by the agent for any liabilities incurred, up to the
7 limits specified in this chapter.

8 (b) This subsection does not designate a person who is
9 not an employee of a unit of government and who provides
10 school health services as an employee or agent of the state
11 for purposes of chapter 440.

12 Section 5. It is the intent of the Legislature that
13 sufficient resources be made available to fund a nurse in
14 every public school in the state, pursuant to this act. The
15 Legislature recognizes that extensive resources will be
16 necessary to achieve this intent, and that a portion of these
17 resources can be found from a variety of existing resources.
18 The Legislature recognizes that existing funding for basic and
19 comprehensive school health services and full-service schools,
20 as created under ss. 381.0056 and 381.0057, Florida Statutes,
21 can be used as partial funding. The Legislature further
22 recognizes that funding earned by local school districts and
23 county health departments from the Agency for Health Care
24 Administration from the delivery of services to
25 Medicaid-eligible students can also be used as partial
26 funding. Finally, the Legislature recognizes that another
27 source of funding is local funding currently being used for
28 school health services, which can now be eligible for matching
29 funds under school nurse services provided through
30 public-private partnerships as created by this act. It is the
31 intent of the Legislature that the remainder of resources

1 necessary for placing a nurse in every school shall be derived
2 from the state's tobacco-settlement revenue.

3 Section 6. The sum of \$75,000 is appropriated from the
4 General Revenue Fund to the Department of Health for the
5 purpose of convening a school health summit as recommended by
6 Senate Interim Project Report 98-30, September 1998.

7 Section 7. This act shall take effect July 1, 2006.

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SENATE SUMMARY

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Revises provisions related to school health services programs. Provides legislative intent and guidelines to publicize and make available matching funds for school nurse services provided through public-private partnerships. Provides a waiver of sovereign immunity relating to tort actions relating to certain health care providers or entities that are acting on behalf of the state in providing school health services. Provides for funding such programs and provides an appropriation. (See bill for details.)

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