

By Senator Campbell

32-236A-06

1 A bill to be entitled

2 An act relating to limitations on the waiver of

3 sovereign immunity; amending s. 768.28, F.S.;

4 allowing a state agency or subdivision to

5 settle and pay a judgment in an amount that

6 exceeds the limits on the waiver, without

7 requiring a claim bill, if both parties agree

8 to the settlement; providing that such a

9 settlement or payment does not waive the

10 agency's or subdivision's defense of sovereign

11 immunity or increase the limits of its

12 liability; providing an effective date.

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

16 Section 1. Subsection (5) of section 768.28, Florida Statutes, is amended to read:

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

22 (5) The state and its agencies and subdivisions shall

23 be liable for tort claims in the same manner and to the same

24 extent as a private individual under like circumstances, but

25 liability shall not include punitive damages or interest for

26 the period before judgment. Neither the state nor its

27 agencies or subdivisions shall be liable to pay a claim or a

28 judgment by any one person which exceeds the sum of \$100,000

29 or any claim or judgment, or portions thereof, which, when

30 totaled with all other claims or judgments paid by the state

31 or its agencies or subdivisions arising out of the same

1 incident or occurrence, exceeds the sum of \$200,000.
2 Notwithstanding the limited waiver of sovereign immunity
3 provided in this subsection, a claim may be made and a
4 judgment rendered in excess of these amounts, and the claim or
5 judgment may be settled and paid from insurance proceeds or
6 otherwise available funds in whole or in part by the state or
7 an agency or subdivision thereof, including for an amount in
8 excess of the limits of liability specified in this
9 subsection, without further act of the Legislature. However,
10 if the state or an agency or subdivision thereof does not
11 agree to pay that portion of a judgment rendered against it
12 which is in excess of the limits of liability specified in
13 this subsection, a judgment or judgments may be claimed and
14 rendered in excess of these amounts and may be settled and
15 paid pursuant to this act up to \$100,000 or \$200,000, as the
16 case may be; and that portion of the judgment which ~~that~~
17 exceeds these amounts may be reported to the Legislature, but
18 may be paid in part or in whole only by further act of the
19 Legislature. Neither ~~Notwithstanding the limited waiver of~~
20 ~~sovereign immunity provided herein, the state or an agency or~~
21 ~~subdivision thereof may agree, within the limits of insurance~~
22 ~~coverage provided, to settle a claim made or a judgment~~
23 ~~rendered against it without further action by the Legislature,~~
24 ~~but~~ the state nor an ~~or~~ agency or subdivision thereof shall
25 ~~not~~ be deemed to have waived any defense of sovereign immunity
26 or to have increased the limits of its liability as a result
27 of its obtaining insurance coverage for tortious acts in
28 excess of the \$100,000 or \$200,000 waiver provided above or as
29 a result of its having agreed to a settlement or to pay a
30 judgment in an amount exceeding the limitations of liability.
31 The limitations of liability set forth in this subsection

1 shall apply to the state and its agencies and subdivisions
2 whether or not the state or its agencies or subdivisions
3 possessed sovereign immunity before July 1, 1974.

4 Section 2. This act shall take effect July 1, 2006.

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7 SENATE SUMMARY

8 Allows a state agency or subdivision to settle and pay a
9 judgment in an amount that exceeds the limits on the
10 waiver of sovereign immunity which are set forth in s.
11 768.28, F.S., without requiring a claim bill, if both
12 parties agree to the settlement. Provides that such a
13 settlement or payment does not waive the defense of
14 sovereign immunity or increase the agency's limits of
15 liability.

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