

HB 287

2009

1 A bill to be entitled
2 An act for the relief of Dennis Gay; providing an
3 appropriation to compensate Dennis Gay for injuries
4 sustained as a result of the negligence of the Department
5 of Transportation; providing for the use of funds;
6 providing for the reversion of funds to the state;
7 providing a limitation on the total amount paid for
8 attorney's fees, lobbying fees, costs, and other similar
9 expenses relating to the claim; providing an effective
10 date.

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12 WHEREAS, on February 2, 2005, at approximately 7 a.m.,
13 Dennis Gay, a 59-year-old man, was a pedestrian in the crosswalk
14 of Brorein Street in Tampa when he was struck by a Department of
15 Transportation vehicle, and

16 WHEREAS, upon being struck by the vehicle, Dennis Gay was
17 thrown approximately 27 feet and rendered unconscious, and

18 WHEREAS, Dennis Gay was taken by ambulance to Tampa General
19 Hospital and was admitted to the hospital in critical condition,
20 diagnosed as having a skull fracture, subarachnoid hemorrhage,
21 subdural hematoma, intracerebral hemorrhage, and left
22 hemiparesis, and

23 WHEREAS, the primary neurosurgeon attending to Dennis Gay
24 induced a coma to try to control the swelling in Dennis Gay's
25 brain, and

26 WHEREAS, Dennis Gay was objectively diagnosed by computer
27 tomography imaging as having significant brain bleeding, which
28 left him permanently brain-damaged and suffering from impaired

29 | cognitive functioning and loss of emotional control, and
 30 | WHEREAS, the neuropsychologist hired by the Department of
 31 | Transportation to examine Dennis Gay concurred in the finding of
 32 | permanent brain damage, and

33 | WHEREAS, upon discharge from the hospital several months
 34 | later in April 2005, Dennis Gay exhibited goal-directed behavior
 35 | only if cued, was able to relearn old skills such as activities
 36 | of daily living, though memory loss interfered with new
 37 | learning, had a beginning awareness of self and others, suffered
 38 | cognitive difficulties and struggled with ambulation, and was
 39 | unable to negotiate the entry stairs at his home, thus requiring
 40 | ramp modifications to the premises, and

41 | WHEREAS, Dennis Gay and his wife, Diana Gay, now deceased,
 42 | filed a lawsuit against the Department of Transportation seeking
 43 | compensation for injuries and damages sustained, and

44 | WHEREAS, there is no dispute as to the liability of the
 45 | Department of Transportation, and the department has submitted
 46 | to a consent judgment in the amount of \$900,000, and

47 | WHEREAS, the Department of Transportation has paid \$100,000
 48 | to Dennis Gay and \$100,000 to Diana Gay, deceased, pursuant to
 49 | the limits of liability set forth in s. 768.28, Florida
 50 | Statutes, and payment of the remaining amount is conditioned
 51 | upon the passage of a claim bill by the Legislature in the
 52 | amount of \$700,000, of which \$500,000 is to be placed in a
 53 | special needs trust created for the benefit of Dennis Gay and
 54 | \$200,000 is to be paid to Dennis Gay for past monetary losses,
 55 | NOW, THEREFORE,

56 |

HB 287

2009

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

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

61 Section 2. There is appropriated from the General Revenue
62 Fund to the Department of Transportation the sum of \$700,000 for
63 the relief of Dennis Gay as compensation for injuries and
64 damages sustained. Of the funds awarded under this section,
65 \$500,000 shall be placed in a special needs trust created for
66 the use and benefit of Dennis Gay and \$200,000 shall be paid to
67 Dennis Gay as compensation for past monetary losses. Any funds
68 remaining in the special needs trust upon the death of Dennis
69 Gay shall revert to the General Revenue Fund of the State of
70 Florida.

71 Section 3. The Chief Financial Officer is directed to draw
72 a warrant in favor of Dennis Gay in the sum of \$700,000 upon
73 funds in the State Treasury to the credit of the Department of
74 Transportation, and the Chief Financial Officer is directed to
75 pay the same out of such funds in the State Treasury not
76 otherwise appropriated.

77 Section 4. Any amount paid by the Department of
78 Transportation pursuant to the waiver of sovereign immunity
79 permitted under s. 768.28, Florida Statutes, and the award under
80 this act are intended to provide the sole compensation for all
81 present and future claims arising out of the factual situation
82 described in the preamble to this act which resulted in injuries
83 and damages to Dennis Gay. The total amount paid for attorney's
84 fees, lobbying fees, costs, and other similar expenses relating

HB 287

2009

85 | to this claim may not exceed 25 percent of the amount awarded
86 | under section 2 of this act.

87 | Section 5. This act shall take effect upon becoming a law.