

HB 957

2009

1 A bill to be entitled
2 An act for the relief of Vincent H. Merriweather by the
3 School Board of Palm Beach County; providing for an
4 appropriation to compensate him for injuries sustained as
5 a result of the negligence of the school board; providing
6 for a limitation on attorney's fees, lobbying fees, costs,
7 and other similar expenses relating to the claim;
8 providing an effective date.

9
10 WHEREAS, on December 15, 2005, 41-year-old Vincent H.
11 Merriweather, a professional firefighter for Palm Beach County
12 who also coached boys' basketball was driving a student-athlete
13 home from practice in his Chevrolet conversion van in Palm Beach
14 County, Florida, and

15 WHEREAS, while waiting at a red light at the intersection
16 of Forest Hill Boulevard and Olympia Boulevard, Dennis W.
17 Grantham, a school bus driver, was approaching westbound on
18 Forest Hill Boulevard driving a Palm Beach County School
19 District bus, and

20 WHEREAS, Mr. Grantham carelessly drove the school bus into
21 the rear of Vincent Merriweather's van at an impact speed of
22 almost 50 m.p.h., and

23 WHEREAS, unable to move after the accident, Vincent
24 Merriweather was airlifted to Delray Medical Center with
25 decreased sensation in all his extremities, and

26 WHEREAS, subsequent expert forensic analysis of the crash
27 determined that Vincent Merriweather received the principal
28 force of the impact of the collision with the 7-ton bus and that

HB 957

2009

29 | his van traveled 300 feet from impact to the point of rest, the
30 | length of a football field, and

31 | WHEREAS, although Vincent Merriweather was wearing his
32 | seatbelt and shoulder harness, the impact of the crash was so
33 | violent that, according to forensic experts, it caused a number
34 | of structural and mechanical failures to the interior of Vincent
35 | Merriweather's van which resulted in his being ejected backward
36 | with his seatbelt on and thrown into the seats behind him, and

37 | WHEREAS, MRI's of Vincent Merriweather on December 15 and
38 | 16, 2005, showed spinal cord contusions at C3 and C6-7, a disc
39 | disruption at C6-7 with bone fragment injury at C6-7,
40 | encroachment of bone into the spinal canal at C6 and C7, soft
41 | tissue edema consistent with disruption of the posterior
42 | longitudinal ligament, and ligamentum nuchae at C6-7, and

43 | WHEREAS, on December 19, 2005, Vincent Merriweather was
44 | transferred to St. Mary's Medical Center and admitted to the
45 | intensive care unit where he was treated by Clay Baynham, M.D.,
46 | and

47 | WHEREAS, Dr. Baynham, a specialist in spinal injuries,
48 | diagnosed a central cord syndrome with weakness in both arms,
49 | mild low-leg weakness consistent with quadraparesis, left
50 | unilateral facet fracture, and ligamentous injuries to the
51 | posterior longitude ligament, and

52 | WHEREAS, Vincent Merriweather was placed in a cervical
53 | collar and, eventually, he progressed from lying in a roto-rest
54 | bed to a first-step mattress and then was sent to physical
55 | therapy for transfer and gradual activities, and

HB 957

2009

56 WHEREAS, On December 24, 2005, Vincent Merriweather was
57 transferred to St. Mary's Medical Center Rehabilitation where he
58 was cared for by Craig Lichtblau, M.D., and

59 WHEREAS, Dr. Lichtblau observed that Vincent Merriweather
60 was suffering functional decline, gait dysfunction, and
61 weakness, and

62 WHEREAS, after extensive rehabilitation for nearly 5
63 months, Vincent Merriweather was discharged from St. Mary's
64 Medical Center Rehabilitation on April 6, 2006, and

65 WHEREAS, on October 27, 2006, Clay Baynham, M.D., continued
66 to treat Vincent Merriweather and ordered a cervical MRI which
67 showed a bulging disc at C2-3, a herniated disc at C3-4, and an
68 8mm syrinx at C3 level of the spinal cord, and

69 WHEREAS, on May 6, 2008, Michael Tuchman, M.D., a
70 psychiatrist and neurologist, evaluated Vincent Merriweather
71 and, as a result of the examination, ordered an EEG and an MRI
72 of the brain that revealed abnormal right matter changes in the
73 brain that are consistent with post-traumatic changes, and

74 WHEREAS, Dr. Tuchman's examination also indicated that
75 there was a contusion at the C3-4 level of the spinal cord and
76 that Vincent Merriweather had a syrinx that could worsen, and

77 WHEREAS, in addition, Dr. Tuchman's examination determined
78 that the spinal cord injury had caused Vincent Merriweather to
79 experience a decrease in his sexual function and caused
80 bilateral spasticity in his legs, making Vincent Merriweather's
81 toes point downward and eliminating his ability to run, and

82 WHEREAS, Dr. Tuchman also indicated that Vincent
83 Merriweather's brain does not adequately transmit to him that he

HB 957

2009

84 is walking, a problem which results in irregular stepping and
85 susceptibility to falling or tripping while walking up stairs,
86 and

87 WHEREAS, Vincent Merriweather's fine motor movements are
88 impaired bilaterally, being worse on the left than the right; he
89 cannot pick up coins, has spotty sensory loss from C4 down, has
90 fairly decreased sensory sensation at C5-6 distribution
91 bilaterally, cannot perform heavy lifting, has a problem picking
92 up pills, and suffers from constipation and intermittent
93 problems emptying his bladder, and

94 WHEREAS, Vincent Merriweather is unemployable and has been
95 given an 80 to 85 percent total disability rating, and

96 WHEREAS, Nicholas A. Rojo, M.D., a neuroradiologist,
97 reviewed various CT scans and MRI's that have been performed on
98 Vincent Merriweather and concluded that the CT scan dated
99 December 15, 2005, shows a Transverse Process Fracture at T1, a
100 facet joint fracture at C7 and T1, and a left C7 lamina
101 fracture, and that the MRI dated December 15, 2005, shows a
102 herniation at C3-4 with contusion of the spinal cord at C3 and
103 partial disruption of C6-7, an encroachment of bone at that
104 level of the spinal cord, a compression fracture of C6 with
105 retropulsion of bone into the spinal canal contusing the spinal
106 cord at that level, and soft tissue swelling of interspinous
107 ligament, and

108 WHEREAS, the MRI dated December 26, 2005, shows a C3 spinal
109 cord contusion, and

HB 957

2009

110 WHEREAS, the MRI dated August 21, 2006, shows a permanent
111 injury to the spinal cord in the form of a syrinx at C3 and that
112 the white color of the spinal cord at C3 is scar tissue, and

113 WHEREAS, the CT scan of August 28, 2006, shows a fracture
114 at C6, offset at C6-7, which is a subluxation caused by the
115 fracture of the facet joint at C7, and

116 WHEREAS, the MRI of October 27, 2006, shows an 8mm syrinx
117 in the spinal cord at C3, disruption of the longitudinal
118 ligament, and a mild myelomalacia at C6-7, and

119 WHEREAS, the MRI of May 14, 2008, shows findings consistent
120 with post-traumatic leukomalacia axonal injury, and

121 WHEREAS, Dr. Craig Lichtblau, the treating physiatrist for
122 Vincent Merriweather, has prepared two comprehensive
123 rehabilitation evaluations on July 2, 2006, and April 3, 2008,
124 and has provided a life care plan, and

125 WHEREAS, Dr. Lichtblau is of the opinion that Vince
126 Merriweather is unemployable and, without the axonal brain
127 injury, suffers from a 62 percent permanent partial impairment
128 of the body, and

129 WHEREAS, Bernard F. Pettingill, Jr., Ph.D., an economist,
130 determined the cost of the life care plan prepared by Craig
131 Lichtblau, M.D., and calculated the loss of Vincent
132 Merriweather's benefits, and

133 WHEREAS, Dr. Pettingill's calculations are as follows: past
134 loss of earning capacity, \$163,261; past loss of fringe
135 benefits, \$16,526; and past medical expenses, \$471,410, for a
136 total of \$651,197 in past losses; future loss of earning
137 capacity, \$1,445,754; future loss of fringe benefits, \$144,575;

HB 957

2009

138 future medical expenses \$106,231; and habilitative care expenses
139 estimated to be \$1,270,648 to \$1,322,717, for a total of
140 \$2,967,208 to \$3,019,277 in estimated future losses, and

141 WHEREAS, at the time of Vincent Merriweather's accident, he
142 was an athletic man, 6 feet 4 inches tall, weighing over 240
143 pounds, who had coached and mentored student-athletes at
144 Cardinal Newman High School in West Palm Beach and then at
145 Summit Christian School, and

146 WHEREAS, Vincent Merriweather had a positive and profound
147 impact on the student-athletes he coached, with several of his
148 players going on to notable success in both professional and
149 collegiate athletics and with others achieving academic success
150 under difficult circumstances, and

151 WHEREAS, prior to the accident of December 15, 2005,
152 Vincent Merriweather took great enjoyment in coaching high
153 school basketball and also had other interests that only the
154 able-bodied can enjoy, and

155 WHEREAS, now Vincent Merriweather's coaching days are over,
156 his athleticism is gone, and, unfortunately, his rich life and
157 positive influence on young people have been greatly altered,
158 and

159 WHEREAS, Vincent Merriweather's life has been
160 catastrophically changed as a result of the accident of December
161 15, 2005, and

162 WHEREAS, Vincent Merriweather is now 44 years old,
163 unemployable, almost completely disabled, limited in his
164 movements, unsteady in his gait, has a syrinx in his spinal
165 cord, is spastic, suffers from decreased sensory sensation,

HB 957

2009

166 suffers from impairment of fine motor movements, has problems
 167 picking up the simplest of objects, including his medication, is
 168 constipated, has problems emptying his bladder, and now leads a
 169 limited life comparable to that of a sedentary elder, and

170 WHEREAS, as a result of the accident of December 15, 2005,
 171 the bus driver, Mr. Grantham, was cited for careless driving and
 172 causing the crash, and

173 WHEREAS, a lawsuit was subsequently filed and during the
 174 litigation the School Board of Palm Beach County admitted
 175 liability in the case, and

176 WHEREAS, the School Board of Palm Beach County has paid
 177 \$100,000 pursuant to the limits of liability set forth in s.
 178 768.28, Florida Statutes, and

179 WHEREAS, on October 15, 2008, the School Board of Palm
 180 Beach County unanimously passed a resolution to pay a claims
 181 bill in favor of Vince Merriweather in the amount of \$3,900,000,
 182 NOW, THEREFORE,

183

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

185

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

188 Section 2. The School Board of Palm Beach County is
 189 authorized and directed to appropriate from funds of the county
 190 not otherwise appropriated and to draw a warrant in the sum of
 191 \$3,900,000 payable to Vincent Merriweather as compensation for
 192 injuries and damages sustained.

193 Section 3. Any amount awarded under this act pursuant to

HB 957

2009

194 the waiver of sovereign immunity permitted under s. 768.28,
195 Florida Statutes, and this award is intended to provide the sole
196 compensation for all present and future claims arising out of
197 the factual situation described in the preamble to this act
198 which resulted in the injury to Vincent Merriweather. The total
199 amount paid for attorney's fees, lobbying fees, costs, and other
200 similar expenses relating to this claim may not exceed 25
201 percent of the amount awarded under section.

202 Section 4. This act shall take effect upon becoming a law.