

1 A bill to be entitled
 2 An act relating to sovereign immunity; amending s. 768.28,
 3 F.S.; providing that a subdivision of the state may pay a
 4 judgment in excess of statutory limits on the waiver of
 5 sovereign immunity without an act of the Legislature if it
 6 so chooses; providing that such payment in excess of the
 7 limits does not waive the subdivision's defense of
 8 sovereign immunity or increase the limits of its
 9 liability; conforming provisions to changes made by the
 10 act; providing an effective date.

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

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

16 768.28 Waiver of sovereign immunity in tort actions;
 17 recovery limits; limitation on attorney fees; statute of
 18 limitations; exclusions; indemnification; risk management
 19 programs.--

20 (5) (a) The state and its agencies ~~and subdivisions~~ shall
 21 be liable for tort claims in the same manner and to the same
 22 extent as a private individual under like circumstances, but
 23 liability shall not include punitive damages or interest for the
 24 period before judgment. Neither the state nor its agencies ~~or~~
 25 ~~subdivisions~~ shall be liable to pay a claim or a judgment by any
 26 one person which exceeds the sum of \$100,000 or any claim or
 27 judgment, or portions thereof, which, when totaled with all
 28 other claims or judgments paid by the state or its agencies ~~or~~

29 ~~subdivisions~~ arising out of the same incident or occurrence,
 30 exceeds the sum of \$200,000. However, a judgment or judgments
 31 may be claimed and rendered in excess of these amounts and may
 32 be settled and paid pursuant to this act up to \$100,000 or
 33 \$200,000, as the case may be; and that portion of the judgment
 34 that exceeds these amounts may be reported to the Legislature,
 35 but may be paid in part or in whole only by further act of the
 36 Legislature. Notwithstanding the limited waiver of sovereign
 37 immunity provided in this paragraph ~~herein~~, the state or an
 38 agency ~~or subdivision thereof~~ may agree, within the limits of
 39 insurance coverage provided, to settle a claim made or a
 40 judgment rendered against it without further action by the
 41 Legislature, but the state or agency ~~or subdivision thereof~~
 42 shall not be deemed to have waived any defense of sovereign
 43 immunity or to have increased the limits of its liability as a
 44 result of its obtaining insurance coverage for tortious acts in
 45 excess of the \$100,000 or \$200,000 waiver provided above. The
 46 limitations of liability set forth in this paragraph ~~subsection~~
 47 shall apply to the state and its agencies ~~and subdivisions~~
 48 whether or not the state or its agencies ~~or subdivisions~~
 49 possessed sovereign immunity before July 1, 1974.

50 (b) A subdivision of the state shall be liable for tort
 51 claims in the same manner and to the same extent as a private
 52 individual under like circumstances, but liability shall not
 53 include punitive damages or interest for the period before
 54 judgment. A subdivision of the state shall not be liable to pay
 55 a claim or a judgment by any one person which exceeds the sum of
 56 \$100,000 or any claim or judgment, or portions thereof, which,

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57 when totaled with all other claims or judgments paid by the
58 subdivision of the state arising out of the same incident or
59 occurrence, exceeds the sum of \$200,000. However, a judgment or
60 judgments may be claimed and rendered in excess of these amounts
61 and may be settled and paid pursuant to this paragraph up to
62 \$100,000 or \$200,000, as the case may be; and that portion of
63 the judgment that exceeds these amounts may be reported to the
64 Legislature and paid in part or in whole by the subdivision from
65 insurance proceeds or otherwise available funds without further
66 action by the Legislature. However, if the subdivision does not
67 agree to pay that portion of a judgment rendered against it
68 which is in excess of the limits of the liability specified in
69 this paragraph, in part or in whole, that portion of the
70 judgment which exceeds those amounts and is not agreed to by the
71 subdivision may be reported to the Legislature, but may be paid
72 by the subdivision in part or in whole only by further act of
73 the Legislature. The subdivision shall not be deemed to have
74 waived any defense of sovereign immunity or to have increased
75 the limits of its liability as a result of its obtaining
76 insurance coverage for tortious acts in excess of the \$100,000
77 or \$200,000 waiver provided above or as a result of its having
78 agreed to a settlement or to pay a judgment in an amount
79 exceeding the limits of liability set forth in this paragraph.
80 The limitations of liability set forth in this paragraph shall
81 apply to subdivisions whether or not the subdivision possessed
82 sovereign immunity before July 1, 1974.

83 Section 2. This act shall take effect July 1, 2009.