

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~~

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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. Notwithstanding the
60 limited waiver of sovereign immunity provided in this paragraph,
61 a subdivision of the state may agree, within the limits of
62 insurance coverage provided or other available funds, to settle
63 a claim made or a judgment rendered against it without further
64 action by the Legislature. However, if the subdivision does not
65 agree to pay that portion of a settlement or a judgment rendered
66 against it which is in excess of the limits of liability
67 specified in this paragraph, in part or in whole, that portion
68 of the settlement or judgment which exceeds those amounts and is
69 not agreed to by the subdivision may be reported to the
70 Legislature, but may be paid by the subdivision in part or in
71 whole only by further act of the Legislature. The subdivision
72 shall not be deemed to have waived any defense of sovereign
73 immunity or to have increased the limits of its liability as a
74 result of its obtaining insurance coverage for tortious acts in
75 excess of the \$100,000 or \$200,000 waiver provided above or as a
76 result of its having agreed to a settlement or to pay a judgment
77 in an amount exceeding the limits of liability set forth in this
78 paragraph. The limitations of liability set forth in this
79 paragraph shall apply to subdivisions whether or not the
80 subdivision possessed sovereign immunity before July 1, 1974.

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