

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;
 6 providing that such payment in excess of the limits does
 7 not waive the subdivision's defense of sovereign immunity
 8 or increase the limits of its liability; providing limits
 9 on payments for cases in which one or more claimants seek
 10 a judgment or settlement against more than one
 11 subdivision, or against the state and one or more
 12 subdivisions, or against the state's agencies and one or
 13 more subdivisions; amending s. 768.28, F.S., effective
 14 October 1, 2011; increasing the statutory limits on
 15 liability; providing applicability; providing an effective
 16 date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Effective October 1, 2010, and applicable to
 21 claims arising on or after that date, subsection (5) of section
 22 768.28, Florida Statutes, is amended to read:

23 768.28 Waiver of sovereign immunity in tort actions;
 24 recovery limits; limitation on attorney fees; statute of
 25 limitations; exclusions; indemnification; risk management
 26 programs.—

27 (5) (a) The state and its agencies ~~and subdivisions~~ shall
 28 be liable for tort claims in the same manner and to the same

CS/HB 1107

2010

29 | extent as a private individual under like circumstances, but
30 | liability shall not include punitive damages or interest for the
31 | period before judgment. Neither the state nor its agencies ~~or~~
32 | ~~subdivisions~~ shall be liable to pay a claim or a judgment by any
33 | one person which exceeds the sum of \$100,000 or any claim or
34 | judgment, or portions thereof, which, when totaled with all
35 | other claims or judgments paid by the state or its agencies ~~or~~
36 | ~~subdivisions~~ arising out of the same incident or occurrence,
37 | exceeds the sum of \$200,000. However, a judgment or judgments
38 | may be claimed and rendered in excess of these amounts and may
39 | be settled and paid pursuant to this act up to \$100,000 or
40 | \$200,000, as the case may be; and that portion of the judgment
41 | that exceeds these amounts may be reported to the Legislature,
42 | but may be paid in part or in whole only by further act of the
43 | Legislature. Notwithstanding the limited waiver of sovereign
44 | immunity provided in this paragraph herein, the state or an
45 | agency ~~or subdivision thereof~~ may agree, within the limits of
46 | insurance coverage provided, to settle a claim made or a
47 | judgment rendered against it without further action by the
48 | Legislature, but the state or agency ~~or subdivision thereof~~
49 | shall not be deemed to have waived any defense of sovereign
50 | immunity or to have increased the limits of its liability as a
51 | result of its obtaining insurance coverage for tortious acts in
52 | excess of the \$100,000 or \$200,000 waiver provided above. The
53 | limitations of liability set forth in this paragraph subsection
54 | shall apply to the state and its agencies ~~and subdivisions~~
55 | whether or not the state or its agencies ~~or subdivisions~~
56 | possessed sovereign immunity before July 1, 1974.

CS/HB 1107

2010

57 (b) A subdivision of the state shall be liable for tort
58 claims in the same manner and to the same extent as a private
59 individual under like circumstances, but liability shall not
60 include punitive damages or interest for the period before
61 judgment. A subdivision of the state shall not be liable to pay
62 a claim or a judgment by any one person which exceeds the sum of
63 \$200,000 or any claim or judgment, or portions thereof, which,
64 when totaled with all other claims or judgments paid by the
65 subdivision of the state arising out of the same incident or
66 occurrence, exceeds the sum of \$400,000.

67 (c) In any case where any one person seeks or where
68 multiple claimants seek a judgment or settlement against more
69 than one subdivision, or against the state and one or more
70 subdivisions, or against the state's agencies and one or more
71 subdivisions, or any combination thereof, the liability limits
72 of this section shall apply so that the combined liability for
73 all government entities when totaled together shall not exceed
74 \$200,000 to pay a claim or judgment out of the same incident to
75 any one person, and shall not exceed \$400,000 to pay multiple
76 claims against the state or its agencies or subdivisions out of
77 the same incident.

78 Section 2. Effective October 1, 2011, and applicable to
79 claims arising on or after that date, subsection (5) of section
80 768.28, Florida Statutes, as amended by this act, is amended to
81 read:

82 768.28 Waiver of sovereign immunity in tort actions;
83 recovery limits; limitation on attorney fees; statute of
84 limitations; exclusions; indemnification; risk management

85 | programs.—

86 | (5) (a) The state and its agencies shall be liable for tort
 87 | claims in the same manner and to the same extent as a private
 88 | individual under like circumstances, but liability shall not
 89 | include punitive damages or interest for the period before
 90 | judgment. Neither the state nor its agencies shall be liable to
 91 | pay a claim or a judgment by any one person which exceeds the
 92 | sum of \$200,000 ~~\$100,000~~ or any claim or judgment, or portions
 93 | thereof, which, when totaled with all other claims or judgments
 94 | paid by the state or its agencies arising out of the same
 95 | incident or occurrence, exceeds the sum of \$400,000 ~~\$200,000~~.
 96 | However, a judgment or judgments may be claimed and rendered in
 97 | excess of these amounts and may be settled and paid pursuant to
 98 | this act up to \$200,000 ~~\$100,000~~ or \$400,000 ~~\$200,000~~, as the
 99 | case may be; and that portion of the judgment that exceeds these
 100 | amounts may be reported to the Legislature, but may be paid in
 101 | part or in whole only by further act of the Legislature.
 102 | Notwithstanding the limited waiver of sovereign immunity
 103 | provided in this paragraph, the state or an agency may agree,
 104 | within the limits of insurance coverage provided, to settle a
 105 | claim made or a judgment rendered against it without further
 106 | action by the Legislature, but the state or agency shall not be
 107 | deemed to have waived any defense of sovereign immunity or to
 108 | have increased the limits of its liability as a result of its
 109 | obtaining insurance coverage for tortious acts in excess of the
 110 | \$200,000 ~~\$100,000~~ or \$400,000 ~~\$200,000~~ waiver provided above.
 111 | The limitations of liability set forth in this paragraph shall
 112 | apply to the state and its agencies whether or not the state or

113 its agencies possessed sovereign immunity before July 1, 1974.

114 (b) A subdivision of the state shall be liable for tort
 115 claims in the same manner and to the same extent as a private
 116 individual under like circumstances, but liability shall not
 117 include punitive damages or interest for the period before
 118 judgment. A subdivision of the state shall not be liable to pay
 119 a claim or a judgment by any one person which exceeds the sum of
 120 \$250,000 ~~\$200,000~~ or any claim or judgment, or portions thereof,
 121 which, when totaled with all other claims or judgments paid by
 122 the subdivision of the state arising out of the same incident or
 123 occurrence, exceeds the sum of \$1,000,000 ~~\$400,000~~.

124 (c) In any case where any one person seeks or where
 125 multiple claimants seek a judgment or settlement against more
 126 than one subdivision, or against the state and one or more
 127 subdivisions, or against the state's agencies and one or more
 128 subdivisions, or any combination thereof, the liability limits
 129 of this section shall apply so that the combined liability for
 130 all government entities when totaled together shall not exceed
 131 \$250,000 ~~\$200,000~~ to pay a claim or judgment out of the same
 132 incident to any one person, and shall not exceed \$1,000,000
 133 ~~\$400,000~~ to pay multiple claims against the state or its
 134 agencies or subdivisions out of the same incident.

135 Section 3. Except as otherwise expressly provided in this
 136 act, this act shall take effect October 1, 2010.