

By the Committee on Judiciary; and Senator Bennett

590-03236-10

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1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; increasing the statutory limits on
4 liability for tort claims against the state and its
5 agencies and subdivisions; providing for application
6 of the act to claims arising on or after the effective
7 date; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Subsection (5) of section 768.28, Florida
12 Statutes, is amended to read:

13 768.28 Waiver of sovereign immunity in tort actions;
14 recovery limits; limitation on attorney fees; statute of
15 limitations; exclusions; indemnification; risk management
16 programs.—

17 (5) The state and its agencies and subdivisions shall be
18 liable for tort claims in the same manner and to the same extent
19 as a private individual under like circumstances, but liability
20 shall not include punitive damages or interest for the period
21 before judgment. Neither the state nor its agencies or
22 subdivisions shall be liable to pay a claim or a judgment by any
23 one person which exceeds the sum of \$200,000 ~~\$100,000~~ or any
24 claim or judgment, or portions thereof, which, when totaled with
25 all other claims or judgments paid by the state or its agencies
26 or subdivisions arising out of the same incident or occurrence,
27 exceeds the sum of \$300,000 ~~\$200,000~~. However, a judgment or
28 judgments may be claimed and rendered in excess of these amounts
29 and may be settled and paid pursuant to this act up to \$200,000

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30 ~~\$100,000~~ or \$300,000 ~~\$200,000~~, as the case may be; and that
31 portion of the judgment that exceeds these amounts may be
32 reported to the Legislature, but may be paid in part or in whole
33 only by further act of the Legislature. Notwithstanding the
34 limited waiver of sovereign immunity provided herein, the state
35 or an agency or subdivision thereof may agree, within the limits
36 of insurance coverage provided, to settle a claim made or a
37 judgment rendered against it without further action by the
38 Legislature, but the state or agency or subdivision thereof
39 shall not be deemed to have waived any defense of sovereign
40 immunity or to have increased the limits of its liability as a
41 result of its obtaining insurance coverage for tortious acts in
42 excess of the \$200,000 ~~\$100,000~~ or \$300,000 ~~\$200,000~~ waiver
43 provided above. The limitations of liability set forth in this
44 subsection shall apply to the state and its agencies and
45 subdivisions whether or not the state or its agencies or
46 subdivisions possessed sovereign immunity before July 1, 1974.
47 Section 2. This act shall take effect October 1, 2011, and
48 applies to claims arising on or after that date.