

HB 1269

2013

1                                   A bill to be entitled  
2           An act for the relief of Donald Brown by the District  
3           School Board of Sumter County; providing for an  
4           appropriation to compensate Donald Brown for injuries  
5           sustained as a result of the negligence of an employee  
6           of the District School Board of Sumter County;  
7           providing a limitation on the payment of fees and  
8           costs; providing an effective date.

9  
10           WHEREAS, on October 18, 2004, at approximately 6:45 a.m.,  
11           Donald Brown was driving his Harley-Davidson motorcycle  
12           eastbound on County Road 470 and was approaching the  
13           intersection with County Road 475 in Bushnell, Florida, and

14           WHEREAS, Patsy C. Foxworth was operating a school bus,  
15           owned by the District School Board of Sumter County, on County  
16           Road 475 in Bushnell, Florida, and

17           WHEREAS, Patsy C. Foxworth was operating and driving the  
18           motor vehicle with the permission and consent of its owner, the  
19           District School Board of Sumter County, and

20           WHEREAS, at that time and place, Patsy C. Foxworth  
21           negligently operated the Sumter County school bus by pulling in  
22           front of Donald Brown in an attempt to make a left turn, which  
23           caused a collision with his motorcycle, and

24           WHEREAS, the District School Board of Sumter County is  
25           vicariously liable for the negligence of Patsy C. Foxworth under  
26           the doctrine of respondeat superior, s. 768.28(9)(a), Florida  
27           Statutes, and

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28 WHEREAS, upon the impact with the Sumter County school bus,  
29 Donald Brown sustained a life-changing injury, and his right  
30 lower leg was amputated instantly below the knee as his leg and  
31 foot were pinned between the bumper of the bus and motorcycle,  
32 and

33 WHEREAS, Donald Brown seeks to recover damages for his  
34 bodily injury, including a permanent injury to the body as a  
35 whole, past and future pain and suffering of both a physical and  
36 mental nature, disability, physical impairment, disfigurement,  
37 mental anguish, inconvenience, loss of capacity for the  
38 enjoyment of life, expense of hospitalization, medical and  
39 nursing care and treatment, loss of earnings, loss of ability to  
40 earn money, and loss of ability to lead and enjoy a normal life,  
41 and

42 WHEREAS, Donald Brown was airlifted to Orlando Regional  
43 Medical Center and was hospitalized from October 18, 2004, to  
44 October 27, 2004, where he was taken to surgery on October 18,  
45 2004, to complete a below-the-knee amputation of his right leg,  
46 and

47 WHEREAS, Donald Brown underwent additional surgeries on  
48 October 25, 2004, and October 28, 2004, to care for the wound  
49 and to do skin grafts from his left thigh to cover an area of  
50 approximately 45 by 30 cm on his right leg, and

51 WHEREAS, Donald Brown was transferred to Shands Hospital in  
52 Gainesville, Florida, for rehabilitation from November 2, 2004,  
53 to November 12, 2004, and

54 WHEREAS, as a result of the injuries incurred on October  
55 18, 2004, Donald Brown required the use of a prosthetic leg,

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56 | which resulted in ulcers requiring additional surgery on January  
57 | 17, 2006, and

58 |       WHEREAS, the effects of the injuries have been devastating,  
59 | restricting Donald Brown's ability to work and enjoy life, and

60 |       WHEREAS, Donald Brown incurred medical expenses in the  
61 | amount of \$421,693.60 and was medically retired from his federal  
62 | employment at the Federal Bureau of Prisons in Coleman, Florida,  
63 | where he was earning \$42,000 a year, and

64 |       WHEREAS, Donald Brown lived a full life before his accident  
65 | on October 18, 2004, had a zest and vigor for life, and was very  
66 | active in recreational, social, and sporting activities, and

67 |       WHEREAS, a lawsuit was brought against the District School  
68 | Board of Sumter County by Donald Brown, and, after a lengthy  
69 | jury trial, the jury found the school board liable for Donald  
70 | Brown's injuries and awarded him damages in the amount of  
71 | \$2,941,240.60, and

72 |       WHEREAS, the Honorable Michelle T. Morley, Circuit Court  
73 | Judge from the Fifth Judicial Circuit in Sumter County, entered  
74 | a final judgment on March 2, 2009, reducing the final verdict to  
75 | \$2,651,375.83, plus taxable costs in the amount of \$31,674.12  
76 | and interest to accrue on the amount of the judgment at a rate  
77 | of 11 percent per annum from the date that the judgment was  
78 | rendered until payment, and

79 |       WHEREAS, the District School Board of Sumter County filed a  
80 | notice of appeal of the judgment on March 30, 2009, which was  
81 | affirmed by the Fifth District Court of Appeal on February 18,  
82 | 2011, and

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83 WHEREAS, Donald Brown is receiving continuous medical care  
 84 for his injuries, including two surgeries after the trial, the  
 85 first surgery occurring on September 16 and 17, 2009, at Orlando  
 86 Regional Medical Center due to a bone infection on his right  
 87 leg, and the second surgery occurring on August 27, 2010, at the  
 88 Jewish Hospital in Louisville, Kentucky, due to complications  
 89 with his right leg resulting in an above-the-knee amputation,  
 90 and

91 WHEREAS, the District School Board of Sumter County has  
 92 paid \$100,000 pursuant to the statutory limits of liability set  
 93 forth in s. 768.28, Florida Statutes, and

94 WHEREAS, the remainder of the judgment is sought through  
 95 the submission of a claim bill to the Legislature, NOW,  
 96 THEREFORE,

97

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

99

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

102 Section 2. The District School Board of Sumter County is  
 103 authorized and directed to appropriate from funds of the school  
 104 board not otherwise appropriated and from available insurance  
 105 proceeds and to draw a warrant payable to Donald Brown in the  
 106 amount of \$900,000. In addition, the District School Board of  
 107 Sumter County is further authorized and directed to appropriate  
 108 from funds of the school board not otherwise appropriated and to  
 109 draw a warrant payable to Donald Brown in the sum of \$50,000 by  
 110 July 1 of each year beginning in 2013 through 2022, inclusive,

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111 for a total of \$500,000. The total amount awarded under this act  
112 is \$1,400,000.

113 Section 3. The compensation awarded under this act is  
114 intended to provide the sole compensation for all present and  
115 future claims arising out of the factual situation described in  
116 this act which resulted in the injuries to Donald Brown. The  
117 total amount paid for attorney fees, lobbying fees, costs, and  
118 other similar expenses relating to this claim may not exceed 15  
119 percent of the first \$1,000,000 awarded under this act, and 10  
120 percent of the remainder awarded under this act, for a total of  
121 \$190,000. However, taxable costs, which may not include attorney  
122 fees and lobbying fees, related to the underlying civil action  
123 may be collected in addition to the \$190,000.

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