

By the Committee on Judiciary; and Senator Braynon

590-01683-15

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1 A bill to be entitled

2 An act for the relief of Javier Soria by Palm Beach
3 County; providing for an appropriation to compensate
4 him for injuries sustained as a result of negligence
5 by an employee of Palm Beach County; providing a
6 limitation on the payment of fees and costs; providing
7 an effective date.

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9 WHEREAS, on April 17, 2007, 36-year-old Javier Soria was
10 lawfully traveling on his motorcycle northbound in the center
11 lane on SR 807 in Delray Beach in the 200 block of South
12 Congress Avenue, and

13 WHEREAS, at the same time, an employee of Palm Beach
14 County, Juan Sepeda Casas, was driving a Palm Beach County dump
15 truck with a utility trailer in tow, and

16 WHEREAS, as Mr. Casas exited the Palm Beach County
17 maintenance complex, he failed to stop at a stop sign, pulling
18 out into the path of Mr. Soria and causing a violent collision
19 between the two vehicles, and

20 WHEREAS, the Palm Beach County truck continued forward,
21 dragging Mr. Soria and the motorcycle under the dump truck for
22 approximately 12 feet, and

23 WHEREAS, Mr. Casas was charged in the accident by the
24 investigating law enforcement agency, the Delray Beach Police
25 Department, and

26 WHEREAS, as a result of the collision, Mr. Soria sustained
27 severe head trauma, including a subarachnoid hemorrhage, a
28 right-elbow fracture, deep lacerations requiring wound
29 debridement, multiple abrasions to his face, hands, legs, and

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30 arms, upper-back pain, low-back disc herniation, left-hip pain,
31 right-wrist pain, right-shoulder pain, and a right-knee linear
32 tear that required bracing, physical therapy, and surgery, and

33 WHEREAS, Mr. Soria has undergone numerous surgical
34 procedures, including irrigation debridement with placement of a
35 temporary external fixator across the elbow joint, subsequent
36 removal of the external fixator, and open reduction internal
37 fixation on ulnar fractures, and

38 WHEREAS, Mr. Soria needs additional surgery to his right
39 elbow, including elbow fusion or total elbow replacement;
40 surgeries to his right wrist and shoulder; and arthroscopic
41 surgery to his right knee; and is a candidate for total knee
42 replacement in the future, and

43 WHEREAS, Mr. Soria suffers from multiple neurological
44 injuries that cause chronic headaches, low-back pain, vision
45 problems, sleep disturbance, depression, memory loss, anxiety,
46 dizziness, tiredness, buzzing in the ears, numbness, tingling,
47 and knee pain, which limit his routine daily activities, and

48 WHEREAS, according to American Medical Association
49 guidelines, Mr. Soria's treating neurologist, Dr. Waden Emery,
50 has assigned him a 31 percent impairment rating with 5 percent
51 for headaches, 14 percent for lumbar radiculopathy, 5 percent
52 for insomnia, and 10 percent for anxiety, and

53 WHEREAS, Mr. Soria's treating orthopedist, Dr. Fernando
54 Moya, has assigned him a 39 percent whole person orthopedic
55 disability impairment rating, which includes 36 percent for
56 injuries to the right elbow, 6 percent for injuries to the right
57 knee, 6 percent for injuries to the lumbar spine, and 5 percent
58 for injuries to the right wrist, and

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59 WHEREAS, Mr. Soria's medical expenses have totaled
60 approximately \$200,254, and experts in life care planning and
61 economics have determined that his future medical expenses are
62 approximately \$640,000, and past and future lost earnings total
63 approximately \$478,000, with total economic damages exceeding
64 \$1.3 million, and

65 WHEREAS, Mr. Soria's injuries resulted in permanent
66 cognitive impairment, with the neuropsychological assessment of
67 Dr. Robert Brick concluding that Mr. Soria suffers from post-
68 traumatic stress disorder, memory loss, poor management and
69 organizational skills, mood swings, daily headaches, constant
70 ringing in his ears, insomnia, panic attacks, and amnesia that
71 require cognitive therapy, and

72 WHEREAS, Mr. Soria continues to suffer from pain and
73 instability in his head, neck, back, body, and limbs and, in
74 addition, continues to suffer from severe depression brought
75 about by his pain, suffering, disability, and limitations, all
76 of which are a direct result of the accident, and

77 WHEREAS, before the accident, Mr. Soria was in excellent
78 physical condition and had dreams of one day opening his own
79 martial arts studio and becoming a certified martial arts
80 instructor, and

81 WHEREAS, Mr. Soria's three children have a corresponding
82 right of action and claim given that Mr. Soria is now
83 permanently disabled with physical limitations and injuries and
84 cognitive restrictions and depression that limit his ability to
85 provide the companionship and support that he was once capable
86 of providing his family, and

87 WHEREAS, a settlement was reached between Mr. Soria, his

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88 three children, and Palm Beach County in the amount of \$300,000,
89 which is in addition to an \$1,800 property damage claim
90 previously paid by Palm Beach County related to the accident,
91 and

92 WHEREAS, Palm Beach County paid the claimants a total of
93 \$200,000 under the statutory limits of liability per occurrence
94 set forth in s. 768.28, Florida Statutes, which fully satisfied
95 the loss of consortium claims of each of the three children, and

96 WHEREAS, Palm Beach County has agreed to and pledged its
97 support for a claim bill in the amount of \$101,800, NOW,
98 THEREFORE,

99

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

101

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

104 Section 2. Palm Beach County is authorized and directed to
105 appropriate from funds of the county not otherwise appropriated
106 and to draw a warrant in the sum of \$101,800, payable to Javier
107 Soria as compensation for injuries and damages sustained.

108 Section 3. The amount paid by Palm Beach County pursuant to
109 s. 768.28, Florida Statutes, and the amount awarded under this
110 act are intended to provide the sole compensation for all
111 present and future claims against Palm Beach County arising out
112 of the factual situation described in this act which resulted in
113 the injuries to Javier Soria. The total amount paid for attorney
114 fees, lobbying fees, costs, and other similar expenses relating
115 to this claim may not exceed 25 percent of the total amount
116 awarded under this act.

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