

By Senator Torres

15-00570-17

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1                   A bill to be entitled  
2           An act for the relief of Robert Allan Smith by Orange  
3           County; providing for an appropriation to compensate  
4           him for injuries sustained as a result of the  
5           negligence of an employee of Orange County; providing  
6           a limitation on the payment of fees and costs;  
7           providing an effective date.

8  
9           WHEREAS, at 1:43 p.m. on September 7, 2006, Robert Allan  
10          Smith was driving his motorcycle north on DePauw Avenue in  
11          Orlando, the quiet residential street he lived on, within 300  
12          feet of his home, within the 25 mph posted speed limit, and with  
13          headlights on in clear, dry weather, and

14          WHEREAS, as Robert Allan Smith approached the intersection  
15          of DePauw Avenue and Orlando Street, at which stop signs are  
16          posted for vehicles traveling on Orlando Street, an Orange  
17          County work van driven by Orange County employee Lynn Lawrence  
18          Godden, which was traveling west on Orlando Street, negligently  
19          pulled away from the stop sign, colliding with Mr. Smith, and

20          WHEREAS, Robert Allan Smith said that he saw the driver of  
21          the Orange County van visibly slow down as he approached the  
22          stop sign, having observed Mr. Smith approaching on his  
23          motorcycle, but that the driver drove through the stop sign and  
24          into Mr. Smith's path and Mr. Smith was unable to avoid a  
25          collision, and

26          WHEREAS, the front of the Orange County van struck Robert  
27          Allan Smith, causing severe and life-threatening injuries and  
28          necessitating surgical procedures, including a traumatic  
29          amputation of his right leg above his knee, and

30          WHEREAS, Robert Allan Smith also suffered a badly fractured  
31          lower left leg with internal fixation, a broken pelvis and  
32          sacrum with internal fixation, and damage to the rectum and

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33 internal organs, which required a laparotomy, and

34 WHEREAS, the Orange County employee testified that he  
35 observed Robert Allan Smith's motorcycle as he approached the  
36 intersection, but he erroneously believed that it was heading  
37 away from him, though there was no evidence to support this  
38 claim, and that he was looking to his right, away from Mr.  
39 Smith, when he entered the intersection, and

40 WHEREAS, the Orange County employee was issued a citation  
41 by the Orlando Police Department for failure to yield right of  
42 way and subsequently was found guilty by a traffic court judge,  
43 and

44 WHEREAS, after finding for Robert Allan Smith and against  
45 Orange County in a civil jury trial, the jury in the case  
46 determined that Mr. Smith's future medical expenses totaled  
47 \$2.376 million over 40 years and that his past medical expenses  
48 and lost wages totaled \$688,807.37, and awarded him \$1,749,978  
49 in damages for past and future pain and suffering, for a total  
50 award of \$4,814,785.37, and

51 WHEREAS, after the total award was reduced by amounts for  
52 comparative negligence and Medicaid and Veteran's Administration  
53 setoffs, a final judgment was entered against Orange County on  
54 November 27, 2012, in the amount of \$2,913,536.09, and

55 WHEREAS, Orange County has paid Robert Allan Smith \$100,000  
56 pursuant to the statutory limits of liability set forth in s.  
57 768.28, Florida Statutes, which were in effect at the time that  
58 Mr. Smith's claim arose, leaving a remaining unpaid balance of  
59 \$2,813,536.09, NOW, THEREFORE,

60  
61 Be It Enacted by the Legislature of the State of Florida:

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

65       Section 2. Orange County is authorized and directed to  
66 appropriate from funds not otherwise encumbered and to draw a  
67 warrant in the sum of \$2,813,536.09 payable to Robert Allan  
68 Smith as compensation for injuries and damages sustained as a  
69 result of the negligence of an employee of Orange County.

70       Section 3. The amount paid by Orange County pursuant to s.  
71 768.28, Florida Statutes, and the amount awarded under this act  
72 are intended to provide the sole compensation for all present  
73 and future claims arising out of the factual situation described  
74 in this act which resulted in injuries and damages to Robert  
75 Allan Smith. The total amount paid for attorney fees, lobbying  
76 fees, costs, and similar expenses relating to this claim may not  
77 exceed 25 percent of the amount awarded under this act.

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