

By the Committee on Judiciary; and Senators Torres, Stewart, and Bracy

590-02189-18

201854c1

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 Mr. Smith for injuries he sustained as a result of the
5 negligence of an employee of Orange County; providing
6 for repayment of Medicaid liens; providing a
7 limitation on the payment of attorney fees; providing
8 an effective date.

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

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

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

26 WHEREAS, the front of the Orange County van struck Mr.
27 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

590-02189-18

201854c1

30 WHEREAS, Mr. Smith also suffered a badly fractured lower
31 left leg with internal fixation, a broken pelvis and sacrum with
32 internal fixation, and damage to the rectum and internal organs,
33 which required a laparotomy, and

34 WHEREAS, the Orange County employee testified that he
35 observed Mr. 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 from a
42 stop sign, and

43 WHEREAS, after finding for Mr. Smith and against Orange
44 County in a civil jury trial, the jury in the case determined
45 that Mr. Smith's future medical expenses totaled \$2,376,000 over
46 40 years and that his past medical expenses and lost wages
47 totaled \$688,807.37, and awarded him \$1,749,978 in damages for
48 past and future pain and suffering, for a total award of
49 \$4,814,785.37, and

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

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

590-02189-18

201854c1

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85

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

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

Section 2. Orange County is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of \$750,000 payable to Robert Allan Smith as compensation for injuries and damages he sustained as a result of the negligence of an employee of Orange County.

Section 3. The governmental entity responsible for payment of the warrant shall pay to the Agency for Health Care Administration the amount due under s. 409.910, Florida Statutes, before disbursing any funds to the claimant. The amount due to the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date upon which this act becomes a law.

Section 4. The amount paid by Orange County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries and damages to Robert Allan Smith. The total amount of attorney fees relating to this claim may not exceed 25 percent of the amount awarded under this act.

Section 5. This act shall take effect upon becoming a law.