

By the Committee on Judiciary; and Senator Cruz

590-03700-19

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1 A bill to be entitled
2 An act for the relief of the Estate of Herminio
3 Padilla, Jr., by the City of West Palm Beach, Palm
4 Beach County, the City of Lake Worth, the City of
5 Riviera Beach, and the Town of Palm Beach; providing
6 for an appropriation to compensate his estate for
7 injuries and damages sustained by Herminio Padilla,
8 Jr., as a result of the negligence of the City of West
9 Palm Beach, Palm Beach County, the City of Lake Worth,
10 the City of Riviera Beach, and the Town of Palm Beach;
11 providing a limitation on the payment of attorney
12 fees; providing an effective date.

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14 WHEREAS, on January 17, 2015, Herminio Padilla, Jr., was an
15 employee of the City of West Palm Beach as a wastewater plant
16 operator, and

17 WHEREAS, shortly after midnight on January 17, 2015, while
18 at a water reclamation facility, Mr. Padilla was walking on an
19 elevated catwalk over a sewage basin when suddenly and
20 unexpectedly one of the catwalk grates collapsed, causing him to
21 fall into the basin, and

22 WHEREAS, at the time of this event, no one was present, no
23 lifesaving equipment was nearby, and Mr. Padilla sank in the
24 basin and drowned, and

25 WHEREAS, the Estate of Herminio Padilla, Jr., filed a
26 lawsuit against the City of West Palm Beach, Palm Beach County,
27 the City of Lake Worth, the City of Riviera Beach, and the Town
28 of Palm Beach, all of which owned the water reclamation facility
29 in which the drowning occurred, and

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30 WHEREAS, through discovery related to the lawsuit, it was
31 revealed that, before the drowning occurred, the owners of the
32 water reclamation facility hired an engineering firm to inspect
33 the facilities and the firm identified several safety issues
34 that required immediate attention, and

35 WHEREAS, subsequent to the drowning, the owners of the
36 water reclamation facility hired a separate engineering company
37 to perform a causal analysis of the drowning which revealed
38 multiple structural defects relating to the catwalk and grates
39 that collapsed, and

40 WHEREAS, an e-mail written by an employee of the facility
41 at issue, dated January 18, 2015, indicated that a mechanic
42 brought the issue of the grate to the attention of the owners
43 one week before the drowning occurred, and

44 WHEREAS, on October 17, 2018, the parties participated in
45 mediation and a settlement in the amount of \$400,000 was
46 reached, of which the City of West Palm Beach, Palm Beach
47 County, the City of Lake Worth, the City of Riviera Beach, and
48 the Town of Palm Beach collectively have paid the statutory
49 limit of \$300,000, with approximately \$100,000 remaining to be
50 paid, NOW, THEREFORE,

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

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

56 Section 2. The City of West Palm Beach, Palm Beach County, the
57 City of Lake Worth, the City of Riviera Beach, and the Town of
58 Palm Beach are authorized and directed to appropriate from funds

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59 not otherwise encumbered and to draw warrants in the sums of
60 \$54,091, \$22,727, \$11,363.50, \$7,273, and \$4,545.50,
61 respectively, payable to Stephen P. Padilla, as personal
62 representative of the Estate of Herminio Padilla, Jr., as
63 compensation for injuries and damages sustained.

64 Section 3. The amounts paid by the City of West Palm Beach,
65 Palm Beach County, the City of Lake Worth, the City of Riviera
66 Beach, and the Town of Palm Beach pursuant to s. 768.28, Florida
67 Statutes, and the amount awarded under this act are intended to
68 provide the sole compensation for all present and future claims
69 arising out of the factual situation described in this act which
70 resulted in the death of Herminio Padilla, Jr. The total amount
71 paid for attorney fees relating to this claim may not exceed 25
72 percent of the amount awarded under this act.

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