

By Senator Torres

15-00141-19

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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       Mr. Smith for injuries and damages he sustained as a  
5       result of the negligence of an employee of Orange  
6       County; providing legislative intent regarding lien  
7       interests held by the state; providing a limitation on  
8       the payment of fees and costs; providing an effective  
9       date.

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

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

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

27       WHEREAS, the front of the Orange County van struck Mr.  
28       Smith, causing severe and life-threatening injuries and  
29       necessitating surgical procedures, including a traumatic

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30 amputation of his right leg above his knee, and

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

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

41 WHEREAS, the Orange County employee was issued a citation  
42 by the Orlando Police Department for failure to yield from a  
43 stop sign, and

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

51 WHEREAS, after the total award was reduced by amounts for  
52 comparative negligence and Medicaid and Veterans 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 Mr. Smith \$100,000 pursuant  
56 to the statutory limits of liability set forth in s. 768.28,  
57 Florida Statutes, which were in effect at the time Mr. Smith's  
58 claim arose, leaving a remaining unpaid balance of

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59 \$2,813,536.09, NOW, THEREFORE,

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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 \$750,000 payable to Robert Allan Smith as  
68 compensation for injuries and damages he sustained as a result  
69 of the negligence of an employee of Orange County.

70 Section 3. It is the intent of the Legislature that the  
71 lien interests relating to the claim of Robert Allan Smith for  
72 the treatment and care of Robert Allan Smith, including Medicaid  
73 liens, are hereby waived or extinguished.

74 Section 4. The amount paid by Orange County pursuant to s.  
75 768.28, Florida Statutes, and the amount awarded under this act  
76 are intended to provide the sole compensation for all present  
77 and future claims arising out of the factual situation described  
78 in this act which resulted in injuries and damages to Robert  
79 Allan Smith. Of the amount awarded under this act, the total  
80 amount paid for attorney fees may not exceed \$150,000, the total  
81 amount paid for lobbying fees may not exceed \$37,500, and the  
82 total amount paid for costs and other similar expenses relating  
83 to this claim may not exceed \$71,511.15.

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