

1 A bill to be entitled
 2 An act relating to sovereign immunity; amending s.
 3 768.28, F.S.; revising the statutory limits on
 4 liability for tort claims against the state and its
 5 agencies and subdivisions; specifying that the
 6 limitations in effect on the date a final judgment is
 7 entered apply to that claim; requiring the Department
 8 of Financial Services to adjust the limitations on
 9 tort liability every year after a specified date;
 10 authorizing certain sexual battery claims and actions
 11 to be presented at any time; reenacting ss. 45.061(5),
 12 110.504(4), 111.071(1) (a), 163.01(15) (k), 190.043,
 13 213.015(13), 252.51, 252.89, 252.944, 260.0125(2),
 14 284.31, 284.38, 322.13(1) (b), 337.19(1), 341.302(17),
 15 373.1395(6), 375.251(3) (a), 381.0056(9), 393.075(3),
 16 395.1055(10) (g), 403.706(17) (c), 409.993(1), (2) (a),
 17 and (3) (a), 455.221(3), 455.32(5), 456.009(3),
 18 456.076(15) (a), 471.038(3), 472.006(11) (b),
 19 497.167(7), 513.118(2), 548.046(1), 556.106(8),
 20 589.19(4) (e), 723.0611(2) (c), 760.11(5), 766.1115(5),
 21 766.112(2), 768.1355(3), 768.295(4), 944.713(2),
 22 946.5026, 946.514(3), 961.06(5), (6), and (7),
 23 1002.33(12) (h), 1002.333(6) (b), 1002.34(17),
 24 1002.55(3) (l), 1002.83(10), 1002.88(1) (p), 1006.24(1),
 25 and 1006.261(2) (b), F.S., to incorporate the

26 amendments made to s. 768.28, F.S., in references
 27 thereto; providing an effective date.
 28

29 Be It Enacted by the Legislature of the State of Florida:
 30

31 Section 1. Subsection (5), paragraph (a) of subsection
 32 (6), and subsection (14) of section 768.28, Florida Statutes,
 33 are amended to read:

34 768.28 Waiver of sovereign immunity in tort actions;
 35 recovery limits; civil liability for damages caused during a
 36 riot; limitation on attorney fees; statute of limitations;
 37 exclusions; indemnification; risk management programs.—

38 (5)(a) The state and its agencies and subdivisions shall
 39 be liable for tort claims in the same manner and to the same
 40 extent as a private individual under like circumstances, but
 41 liability shall not include punitive damages or interest for the
 42 period before judgment. Neither the state nor its agencies or
 43 subdivisions shall be liable to pay a claim or a judgment by any
 44 one person which exceeds the sum of \$1 million ~~\$200,000 or any~~
 45 ~~claim or judgment, or portions thereof, which, when totaled with~~
 46 ~~all other claims or judgments paid by the state or its agencies~~
 47 ~~or subdivisions arising out of the same incident or occurrence,~~
 48 ~~exceeds the sum of \$300,000.~~ However, a judgment or judgments
 49 may be claimed and rendered in excess of this amount ~~these~~
 50 ~~amounts and may be settled~~ and paid pursuant to this act up to

51 \$1 million per person, ~~\$200,000 or \$300,000, as the case may be;~~
52 and that portion of the judgment that exceeds this amount ~~these~~
53 ~~amounts~~ may be reported to the Legislature, and ~~but~~ may be paid
54 in part or in whole ~~only~~ by further act of the Legislature.
55 Notwithstanding the limited waiver of sovereign immunity
56 provided herein, the state or an agency or subdivision thereof
57 may agree, within the limits of insurance coverage provided, to
58 settle a claim made or a judgment rendered against it without
59 further action by the Legislature, but the state or agency or
60 subdivision thereof shall not be deemed to have waived any
61 defense of sovereign immunity or to have increased the limits of
62 its liability as a result of its obtaining insurance coverage
63 for tortious acts in excess of the \$1 million ~~\$200,000 or~~
64 ~~\$300,000~~ waiver provided above.

65 (b) The limitations of liability set forth in this
66 subsection shall apply to the state and its agencies and
67 subdivisions whether or not the state or its agencies or
68 subdivisions possessed sovereign immunity before July 1, 1974.

69 (c) When determining liability limits for a claim, the
70 limitations of liability in effect on the date a final judgment
71 is entered shall apply to the claim.

72 (d) Beginning July 1, 2023, and each July 1 thereafter,
73 the Department of Financial Services shall adjust the
74 limitations of liability in this subsection to reflect changes
75 in the Consumer Price Index for the Southeast or a successor

76 | index as calculated by the United States Department of Labor.

77 | ~~(e)-(b)~~ A municipality has a duty to allow the municipal
 78 | law enforcement agency to respond appropriately to protect
 79 | persons and property during a riot or an unlawful assembly based
 80 | on the availability of adequate equipment to its municipal law
 81 | enforcement officers and relevant state and federal laws. If the
 82 | governing body of a municipality or a person authorized by the
 83 | governing body of the municipality breaches that duty, the
 84 | municipality is civilly liable for any damages, including
 85 | damages arising from personal injury, wrongful death, or
 86 | property damages proximately caused by the municipality's breach
 87 | of duty. The sovereign immunity recovery limits in paragraph (a)
 88 | do not apply to an action under this paragraph.

89 | (6) (a) An action may not be instituted on a claim against
 90 | the state or one of its agencies or subdivisions unless the
 91 | claimant presents the claim in writing to the appropriate
 92 | agency, and also, except as to any claim against a municipality,
 93 | county, or the Florida Space Authority, presents such claim in
 94 | writing to the Department of Financial Services, within 3 years
 95 | after such claim accrues and the Department of Financial
 96 | Services or the appropriate agency denies the claim in writing;
 97 | except that, if:

98 | 1. Such claim is for contribution pursuant to s. 768.31,
 99 | it must be so presented within 6 months after the judgment
 100 | against the tortfeasor seeking contribution has become final by

101 lapse of time for appeal or after appellate review or, if there
 102 is no such judgment, within 6 months after the tortfeasor
 103 seeking contribution has either discharged the common liability
 104 by payment or agreed, while the action is pending against her or
 105 him, to discharge the common liability; ~~or~~

106 2. Such action is for wrongful death, the claimant must
 107 present the claim in writing to the Department of Financial
 108 Services within 2 years after the claim accrues; or

109 3. Such action arises from a violation of s. 794.011
 110 involving a victim who was younger than the age of 16 at the
 111 time of the act, the claimant may present the claim at any time.

112 (14) Every claim against the state or one of its agencies
 113 or subdivisions for damages for a negligent or wrongful act or
 114 omission pursuant to this section shall be forever barred unless
 115 the civil action is commenced by filing a complaint in the court
 116 of appropriate jurisdiction within 4 years after such claim
 117 accrues; except that:

118 (a) An action for contribution must be commenced within
 119 the limitations provided in s. 768.31(4); ~~and~~

120 (b) An action for damages arising from medical malpractice
 121 or wrongful death must be commenced within the limitations for
 122 such actions in s. 95.11(4); and

123 (c) An action arising from acts constituting a violation
 124 of s. 794.011 involving a victim who was younger than the age of
 125 16 at the time of the act may be commenced at any time pursuant

126 | to s. 95.11(9).

127 | Section 2. For the purpose of incorporating the amendment
128 | made by this act to section 768.28, Florida Statutes, in a
129 | reference thereto, subsection (5) of section 45.061, Florida
130 | Statutes, is reenacted to read:

131 | 45.061 Offers of settlement.—

132 | (5) Sanctions authorized under this section may be imposed
133 | notwithstanding any limitation on recovery of costs or expenses
134 | which may be provided by contract or in other provisions of
135 | Florida law. This section shall not be construed to waive the
136 | limits of sovereign immunity set forth in s. 768.28.

137 | Section 3. For the purpose of incorporating the amendment
138 | made by this act to section 768.28, Florida Statutes, in a
139 | reference thereto, subsection (4) of section 110.504, Florida
140 | Statutes, is reenacted to read:

141 | 110.504 Volunteer benefits.—

142 | (4) Volunteers shall be covered by state liability
143 | protection in accordance with the definition of a volunteer and
144 | the provisions of s. 768.28.

145 | Section 4. For the purpose of incorporating the amendment
146 | made by this act to section 768.28, Florida Statutes, in a
147 | reference thereto, paragraph (a) of subsection (1) of section
148 | 111.071, Florida Statutes, is reenacted to read:

149 | 111.071 Payment of judgments or settlements against
150 | certain public officers or employees.—

151 (1) Any county, municipality, political subdivision, or
 152 agency of the state which has been excluded from participation
 153 in the Insurance Risk Management Trust Fund is authorized to
 154 expend available funds to pay:

155 (a) Any final judgment, including damages, costs, and
 156 attorney's fees, arising from a complaint for damages or injury
 157 suffered as a result of any act or omission of action of any
 158 officer, employee, or agent in a civil or civil rights lawsuit
 159 described in s. 111.07. If the civil action arises under s.
 160 768.28 as a tort claim, the limitations and provisions of s.
 161 768.28 governing payment shall apply. If the action is a civil
 162 rights action arising under 42 U.S.C. s. 1983, or similar
 163 federal statutes, payments for the full amount of the judgment
 164 may be made unless the officer, employee, or agent has been
 165 determined in the final judgment to have caused the harm
 166 intentionally.

167 Section 5. For the purpose of incorporating the amendment
 168 made by this act to section 768.28, Florida Statutes, in a
 169 reference thereto, paragraph (k) of subsection (15) of section
 170 163.01, Florida Statutes, is reenacted to read:

171 163.01 Florida Interlocal Cooperation Act of 1969.—

172 (15) Notwithstanding any other provision of this section
 173 or of any other law except s. 361.14, any public agency of this
 174 state which is an electric utility, or any separate legal entity
 175 created pursuant to the provisions of this section, the

176 membership of which consists only of electric utilities, and
 177 which exercises or proposes to exercise the powers granted by
 178 part II of chapter 361, the Joint Power Act, may exercise any or
 179 all of the following powers:

180 (k) The limitations on waiver in the provisions of s.
 181 768.28 or any other law to the contrary notwithstanding, the
 182 Legislature, in accordance with s. 13, Art. X of the State
 183 Constitution, hereby declares that any such legal entity or any
 184 public agency of this state that participates in any electric
 185 project waives its sovereign immunity to:

- 186 1. All other persons participating therein; and
- 187 2. Any person in any manner contracting with a legal
 188 entity of which any such public agency is a member, with
 189 relation to:

190 a. Ownership, operation, or any other activity set forth
 191 in sub-subparagraph (b)2.d. with relation to any electric
 192 project; or

193 b. The supplying or purchasing of services, output,
 194 capacity, energy, or any combination thereof.

195 Section 6. For the purpose of incorporating the amendment
 196 made by this act to section 768.28, Florida Statutes, in a
 197 reference thereto, section 190.043, Florida Statutes, is
 198 reenacted to read:

199 190.043 Suits against the district.—Any suit or action
 200 brought or maintained against the district for damages arising

201 out of tort, including, without limitation, any claim arising
 202 upon account of an act causing an injury or loss of property,
 203 personal injury, or death, shall be subject to the limitations
 204 provided in s. 768.28.

205 Section 7. For the purpose of incorporating the amendment
 206 made by this act to section 768.28, Florida Statutes, in a
 207 reference thereto, subsection (13) of section 213.015, Florida
 208 Statutes, is reenacted to read:

209 213.015 Taxpayer rights.—There is created a Florida
 210 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
 211 and property of Florida taxpayers are adequately safeguarded and
 212 protected during tax assessment, collection, and enforcement
 213 processes administered under the revenue laws of this state. The
 214 Taxpayer's Bill of Rights compiles, in one document, brief but
 215 comprehensive statements which explain, in simple, nontechnical
 216 terms, the rights and obligations of the Department of Revenue
 217 and taxpayers. Section 192.0105 provides additional rights
 218 afforded to payors of property taxes and assessments. The rights
 219 afforded taxpayers to ensure that their privacy and property are
 220 safeguarded and protected during tax assessment and collection
 221 are available only insofar as they are implemented in other
 222 parts of the Florida Statutes or rules of the Department of
 223 Revenue. The rights so guaranteed Florida taxpayers in the
 224 Florida Statutes and the departmental rules are:

225 (13) The right to an action at law within the limitations

226 of s. 768.28, relating to sovereign immunity, to recover damages
227 against the state or the Department of Revenue for injury caused
228 by the wrongful or negligent act or omission of a department
229 officer or employee (see s. 768.28).

230 Section 8. For the purpose of incorporating the amendment
231 made by this act to section 768.28, Florida Statutes, in a
232 reference thereto, section 252.51, Florida Statutes, is
233 reenacted to read:

234 252.51 Liability.—Any person or organization, public or
235 private, owning or controlling real estate or other premises who
236 voluntarily and without compensation, other than payment or
237 reimbursement of costs and expenses, grants a license or
238 privilege or otherwise permits the designation by the local
239 emergency management agency or use of the whole or any part of
240 such real estate or premises for the purpose of sheltering
241 persons during an actual, impending, mock, or practice
242 emergency, together with her or his successor in interest, if
243 any, shall not be liable for the death of, or injury to, any
244 person on or about such real estate or premises during the
245 actual, impending, mock, or practice emergency, or for loss of,
246 or damage to, the property of such person, solely by reason or
247 as a result of such license, privilege, designation, or use,
248 unless the gross negligence or the willful and wanton misconduct
249 of such person owning or controlling such real estate or
250 premises or her or his successor in interest is the proximate

251 cause of such death, injury, loss, or damage occurring during
 252 such sheltering period. Any such person or organization who
 253 provides such shelter space for compensation shall be deemed to
 254 be an instrumentality of the state or its applicable agency or
 255 subdivision for the purposes of s. 768.28.

256 Section 9. For the purpose of incorporating the amendment
 257 made by this act to section 768.28, Florida Statutes, in a
 258 reference thereto, section 252.89, Florida Statutes, is
 259 reenacted to read:

260 252.89 Tort liability.—The commission and the committees
 261 shall be state agencies, and the members of the commission and
 262 committees shall be officers, employees, or agents of the state
 263 for the purposes of s. 768.28.

264 Section 10. For the purpose of incorporating the amendment
 265 made by this act to section 768.28, Florida Statutes, in a
 266 reference thereto, section 252.944, Florida Statutes, is
 267 reenacted to read:

268 252.944 Tort liability.—The commission and the committees
 269 are state agencies, and the members of the commission and
 270 committees are officers, employees, or agents of the state for
 271 the purpose of s. 768.28.

272 Section 11. For the purpose of incorporating the amendment
 273 made by this act to section 768.28, Florida Statutes, in a
 274 reference thereto, subsection (2) of section 260.0125, Florida
 275 Statutes, is reenacted to read:

276 260.0125 Limitation on liability of private landowners
 277 whose property is designated as part of the statewide system of
 278 greenways and trails.-

279 (2) Any private landowner who consents to designation of
 280 his or her land as part of the statewide system of greenways and
 281 trails pursuant to s. 260.016(2)(d) without compensation shall
 282 be considered a volunteer, as defined in s. 110.501, and shall
 283 be covered by state liability protection pursuant to s. 768.28,
 284 including s. 768.28(9).

285 Section 12. For the purpose of incorporating the amendment
 286 made by this act to section 768.28, Florida Statutes, in a
 287 reference thereto, section 284.31, Florida Statutes, is
 288 reenacted to read:

289 284.31 Scope and types of coverages; separate accounts.-
 290 The Insurance Risk Management Trust Fund must, unless
 291 specifically excluded by the Department of Financial Services,
 292 cover all departments of the State of Florida and their
 293 employees, agents, and volunteers and must provide separate
 294 accounts for workers' compensation, general liability, fleet
 295 automotive liability, federal civil rights actions under 42
 296 U.S.C. s. 1983 or similar federal statutes, state agency
 297 firefighter cancer benefits payable under s. 112.1816(2), and
 298 court-awarded attorney fees in other proceedings against the
 299 state except for such awards in eminent domain or for inverse
 300 condemnation or for awards by the Public Employees Relations

301 Commission. Unless specifically excluded by the Department of
 302 Financial Services, the Insurance Risk Management Trust Fund
 303 must provide fleet automotive liability coverage to motor
 304 vehicles titled to the state, or to any department of the state,
 305 when such motor vehicles are used by community transportation
 306 coordinators performing, under contract to the appropriate
 307 department of the state, services for the transportation
 308 disadvantaged under part I of chapter 427. Such fleet automotive
 309 liability coverage is primary and is subject to s. 768.28 and
 310 parts II and III of chapter 284, and applicable rules adopted
 311 thereunder, and the terms and conditions of the certificate of
 312 coverage issued by the Department of Financial Services.

313 Section 13. For the purpose of incorporating the amendment
 314 made by this act to section 768.28, Florida Statutes, in a
 315 reference thereto, section 284.38, Florida Statutes, is
 316 reenacted to read:

317 284.38 Waiver of sovereign immunity; effect.—The insurance
 318 programs developed herein shall provide limits as established by
 319 the provisions of s. 768.28 if a tort claim. The limits provided
 320 in s. 768.28 shall not apply to a civil rights action arising
 321 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a
 322 pending or future claim or judgment arising under any of said
 323 statutes may be made upon this act becoming a law, unless the
 324 officer, employee, or agent has been determined in the final
 325 judgment to have caused the harm intentionally; however, the

326 fund is authorized to pay all other court-ordered attorney's
 327 fees as provided under s. 284.31.

328 Section 14. For the purpose of incorporating the amendment
 329 made by this act to section 768.28, Florida Statutes, in a
 330 reference thereto, paragraph (b) of subsection (1) of section
 331 322.13, Florida Statutes, is reenacted to read:

332 322.13 Driver license examiners.—

333 (1)

334 (b) Those persons serving as driver license examiners are
 335 not liable for actions taken within the scope of their
 336 employment or designation, except as provided by s. 768.28.

337 Section 15. For the purpose of incorporating the amendment
 338 made by this act to section 768.28, Florida Statutes, in a
 339 reference thereto, subsection (1) of section 337.19, Florida
 340 Statutes, is reenacted to read:

341 337.19 Suits by and against department; limitation of
 342 actions; forum.—

343 (1) Suits at law and in equity may be brought and
 344 maintained by and against the department on any contract claim
 345 arising from breach of an express provision or an implied
 346 covenant of a written agreement or a written directive issued by
 347 the department pursuant to the written agreement. In any such
 348 suit, the department and the contractor shall have all of the
 349 same rights and obligations as a private person under a like
 350 contract except that no liability may be based on an oral

351 modification of either the written contract or written
352 directive. Nothing herein shall be construed to waive the
353 sovereign immunity of the state and its political subdivisions
354 from equitable claims and equitable remedies. Notwithstanding
355 anything to the contrary contained in this section, no employee
356 or agent of the department may be held personally liable to an
357 extent greater than that pursuant to s. 768.28 provided that no
358 suit sounding in tort shall be maintained against the
359 department.

360 Section 16. For the purpose of incorporating the amendment
361 made by this act to section 768.28, Florida Statutes, in a
362 reference thereto, subsection (17) of section 341.302, Florida
363 Statutes, is reenacted to read:

364 341.302 Rail program; duties and responsibilities of the
365 department.—The department, in conjunction with other
366 governmental entities, including the rail enterprise and the
367 private sector, shall develop and implement a rail program of
368 statewide application designed to ensure the proper maintenance,
369 safety, revitalization, and expansion of the rail system to
370 assure its continued and increased availability to respond to
371 statewide mobility needs. Within the resources provided pursuant
372 to chapter 216, and as authorized under federal law, the
373 department shall:

374 (17) In conjunction with the acquisition, ownership,
375 construction, operation, maintenance, and management of a rail

376 | corridor, have the authority to:

377 | (a) Assume obligations pursuant to the following:

378 | 1.a. The department may assume the obligation by contract
 379 | to forever protect, defend, indemnify, and hold harmless the
 380 | freight rail operator, or its successors, from whom the
 381 | department has acquired a real property interest in the rail
 382 | corridor, and that freight rail operator's officers, agents, and
 383 | employees, from and against any liability, cost, and expense,
 384 | including, but not limited to, commuter rail passengers and rail
 385 | corridor invitees in the rail corridor, regardless of whether
 386 | the loss, damage, destruction, injury, or death giving rise to
 387 | any such liability, cost, or expense is caused in whole or in
 388 | part, and to whatever nature or degree, by the fault, failure,
 389 | negligence, misconduct, nonfeasance, or misfeasance of such
 390 | freight rail operator, its successors, or its officers, agents,
 391 | and employees, or any other person or persons whomsoever; or

392 | b. The department may assume the obligation by contract to
 393 | forever protect, defend, indemnify, and hold harmless National
 394 | Railroad Passenger Corporation, or its successors, and officers,
 395 | agents, and employees of National Railroad Passenger
 396 | Corporation, from and against any liability, cost, and expense,
 397 | including, but not limited to, commuter rail passengers and rail
 398 | corridor invitees in the rail corridor, regardless of whether
 399 | the loss, damage, destruction, injury, or death giving rise to
 400 | any such liability, cost, or expense is caused in whole or in

401 part, and to whatever nature or degree, by the fault, failure,
 402 negligence, misconduct, nonfeasance, or misfeasance of National
 403 Railroad Passenger Corporation, its successors, or its officers,
 404 agents, and employees, or any other person or persons
 405 whomsoever.

406 2. The assumption of liability of the department by
 407 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
 408 1.b. may not in any instance exceed the following parameters of
 409 allocation of risk:

410 a. The department may be solely responsible for any loss,
 411 injury, or damage to commuter rail passengers, or rail corridor
 412 invitees, or trespassers, regardless of circumstances or cause,
 413 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
 414 6.

415 b.(I) In the event of a limited covered accident, the
 416 authority of the department to protect, defend, and indemnify
 417 the freight operator for all liability, cost, and expense,
 418 including punitive or exemplary damages, in excess of the
 419 deductible or self-insurance retention fund established under
 420 paragraph (b) and actually in force at the time of the limited
 421 covered accident exists only if the freight operator agrees,
 422 with respect to the limited covered accident, to protect,
 423 defend, and indemnify the department for the amount of the
 424 deductible or self-insurance retention fund established under
 425 paragraph (b) and actually in force at the time of the limited

426 covered accident.

427 (II) In the event of a limited covered accident, the
428 authority of the department to protect, defend, and indemnify
429 National Railroad Passenger Corporation for all liability, cost,
430 and expense, including punitive or exemplary damages, in excess
431 of the deductible or self-insurance retention fund established
432 under paragraph (b) and actually in force at the time of the
433 limited covered accident exists only if National Railroad
434 Passenger Corporation agrees, with respect to the limited
435 covered accident, to protect, defend, and indemnify the
436 department for the amount of the deductible or self-insurance
437 retention fund established under paragraph (b) and actually in
438 force at the time of the limited covered accident.

439 3. When only one train is involved in an incident, the
440 department may be solely responsible for any loss, injury, or
441 damage if the train is a department train or other train
442 pursuant to subparagraph 4., but only if:

443 a. When an incident occurs with only a freight train
444 involved, including incidents with trespassers or at grade
445 crossings, the freight rail operator is solely responsible for
446 any loss, injury, or damage, except for commuter rail passengers
447 and rail corridor invitees; or

448 b. When an incident occurs with only a National Railroad
449 Passenger Corporation train involved, including incidents with
450 trespassers or at grade crossings, National Railroad Passenger

451 Corporation is solely responsible for any loss, injury, or
452 damage, except for commuter rail passengers and rail corridor
453 invitees.

454 4. For the purposes of this subsection:

455 a. Any train involved in an incident that is neither the
456 department's train nor the freight rail operator's train,
457 hereinafter referred to in this subsection as an "other train,"
458 may be treated as a department train, solely for purposes of any
459 allocation of liability between the department and the freight
460 rail operator only, but only if the department and the freight
461 rail operator share responsibility equally as to third parties
462 outside the rail corridor who incur loss, injury, or damage as a
463 result of any incident involving both a department train and a
464 freight rail operator train, and the allocation as between the
465 department and the freight rail operator, regardless of whether
466 the other train is treated as a department train, shall remain
467 one-half each as to third parties outside the rail corridor who
468 incur loss, injury, or damage as a result of the incident. The
469 involvement of any other train shall not alter the sharing of
470 equal responsibility as to third parties outside the rail
471 corridor who incur loss, injury, or damage as a result of the
472 incident; or

473 b. Any train involved in an incident that is neither the
474 department's train nor the National Railroad Passenger
475 Corporation's train, hereinafter referred to in this subsection

476 as an "other train," may be treated as a department train,
 477 solely for purposes of any allocation of liability between the
 478 department and National Railroad Passenger Corporation only, but
 479 only if the department and National Railroad Passenger
 480 Corporation share responsibility equally as to third parties
 481 outside the rail corridor who incur loss, injury, or damage as a
 482 result of any incident involving both a department train and a
 483 National Railroad Passenger Corporation train, and the
 484 allocation as between the department and National Railroad
 485 Passenger Corporation, regardless of whether the other train is
 486 treated as a department train, shall remain one-half each as to
 487 third parties outside the rail corridor who incur loss, injury,
 488 or damage as a result of the incident. The involvement of any
 489 other train shall not alter the sharing of equal responsibility
 490 as to third parties outside the rail corridor who incur loss,
 491 injury, or damage as a result of the incident.

492 5. When more than one train is involved in an incident:

493 a.(I) If only a department train and freight rail
 494 operator's train, or only an other train as described in sub-
 495 subparagraph 4.a. and a freight rail operator's train, are
 496 involved in an incident, the department may be responsible for
 497 its property and all of its people, all commuter rail
 498 passengers, and rail corridor invitees, but only if the freight
 499 rail operator is responsible for its property and all of its
 500 people, and the department and the freight rail operator each

HB 799

2022

501 share one-half responsibility as to trespassers or third parties
502 outside the rail corridor who incur loss, injury, or damage as a
503 result of the incident; or

504 (II) If only a department train and a National Railroad
505 Passenger Corporation train, or only an other train as described
506 in sub-subparagraph 4.b. and a National Railroad Passenger
507 Corporation train, are involved in an incident, the department
508 may be responsible for its property and all of its people, all
509 commuter rail passengers, and rail corridor invitees, but only
510 if National Railroad Passenger Corporation is responsible for
511 its property and all of its people, all National Railroad
512 Passenger Corporation's rail passengers, and the department and
513 National Railroad Passenger Corporation each share one-half
514 responsibility as to trespassers or third parties outside the
515 rail corridor who incur loss, injury, or damage as a result of
516 the incident.

517 b.(I) If a department train, a freight rail operator
518 train, and any other train are involved in an incident, the
519 allocation of liability between the department and the freight
520 rail operator, regardless of whether the other train is treated
521 as a department train, shall remain one-half each as to third
522 parties outside the rail corridor who incur loss, injury, or
523 damage as a result of the incident; the involvement of any other
524 train shall not alter the sharing of equal responsibility as to
525 third parties outside the rail corridor who incur loss, injury,

526 or damage as a result of the incident; and, if the owner,
527 operator, or insurer of the other train makes any payment to
528 injured third parties outside the rail corridor who incur loss,
529 injury, or damage as a result of the incident, the allocation of
530 credit between the department and the freight rail operator as
531 to such payment shall not in any case reduce the freight rail
532 operator's third-party-sharing allocation of one-half under this
533 paragraph to less than one-third of the total third party
534 liability; or

535 (II) If a department train, a National Railroad Passenger
536 Corporation train, and any other train are involved in an
537 incident, the allocation of liability between the department and
538 National Railroad Passenger Corporation, regardless of whether
539 the other train is treated as a department train, shall remain
540 one-half each as to third parties outside the rail corridor who
541 incur loss, injury, or damage as a result of the incident; the
542 involvement of any other train shall not alter the sharing of
543 equal responsibility as to third parties outside the rail
544 corridor who incur loss, injury, or damage as a result of the
545 incident; and, if the owner, operator, or insurer of the other
546 train makes any payment to injured third parties outside the
547 rail corridor who incur loss, injury, or damage as a result of
548 the incident, the allocation of credit between the department
549 and National Railroad Passenger Corporation as to such payment
550 shall not in any case reduce National Railroad Passenger

551 Corporation's third-party-sharing allocation of one-half under
552 this sub-subparagraph to less than one-third of the total third
553 party liability.

554 6. Any such contractual duty to protect, defend,
555 indemnify, and hold harmless such a freight rail operator or
556 National Railroad Passenger Corporation shall expressly include
557 a specific cap on the amount of the contractual duty, which
558 amount shall not exceed \$200 million without prior legislative
559 approval, and the department to purchase liability insurance and
560 establish a self-insurance retention fund in the amount of the
561 specific cap established under this subparagraph, provided that:

562 a. No such contractual duty shall in any case be effective
563 nor otherwise extend the department's liability in scope and
564 effect beyond the contractual liability insurance and self-
565 insurance retention fund required pursuant to this paragraph;
566 and

567 b.(I) The freight rail operator's compensation to the
568 department for future use of the department's rail corridor
569 shall include a monetary contribution to the cost of such
570 liability coverage for the sole benefit of the freight rail
571 operator.

572 (II) National Railroad Passenger Corporation's
573 compensation to the department for future use of the
574 department's rail corridor shall include a monetary contribution
575 to the cost of such liability coverage for the sole benefit of

576 National Railroad Passenger Corporation.

577 (b) Purchase liability insurance, which amount shall not
578 exceed \$200 million, and establish a self-insurance retention
579 fund for the purpose of paying the deductible limit established
580 in the insurance policies it may obtain, including coverage for
581 the department, any freight rail operator as described in
582 paragraph (a), National Railroad Passenger Corporation, commuter
583 rail service providers, governmental entities, or any ancillary
584 development, which self-insurance retention fund or deductible
585 shall not exceed \$10 million. The insureds shall pay a
586 reasonable monetary contribution to the cost of such liability
587 coverage for the sole benefit of the insured. Such insurance and
588 self-insurance retention fund may provide coverage for all
589 damages, including, but not limited to, compensatory, special,
590 and exemplary, and be maintained to provide an adequate fund to
591 cover claims and liabilities for loss, injury, or damage arising
592 out of or connected with the ownership, operation, maintenance,
593 and management of a rail corridor.

594 (c) Incur expenses for the purchase of advertisements,
595 marketing, and promotional items.

596 (d) Without altering any of the rights granted to the
597 department under this section, agree to assume the obligations
598 to indemnify and insure, pursuant to s. 343.545, freight rail
599 service, intercity passenger rail service, and commuter rail
600 service on a department-owned rail corridor, whether ownership

601 is in fee or by easement, or on a rail corridor where the
602 department has the right to operate.
603
604 Neither the assumption by contract to protect, defend,
605 indemnify, and hold harmless; the purchase of insurance; nor the
606 establishment of a self-insurance retention fund shall be deemed
607 to be a waiver of any defense of sovereign immunity for torts
608 nor deemed to increase the limits of the department's or the
609 governmental entity's liability for torts as provided in s.
610 768.28. The requirements of s. 287.022(1) shall not apply to the
611 purchase of any insurance under this subsection. The provisions
612 of this subsection shall apply and inure fully as to any other
613 governmental entity providing commuter rail service and
614 constructing, operating, maintaining, or managing a rail
615 corridor on publicly owned right-of-way under contract by the
616 governmental entity with the department or a governmental entity
617 designated by the department. Notwithstanding any law to the
618 contrary, procurement for the construction, operation,
619 maintenance, and management of any rail corridor described in
620 this subsection, whether by the department, a governmental
621 entity under contract with the department, or a governmental
622 entity designated by the department, shall be pursuant to s.
623 287.057 and shall include, but not be limited to, criteria for
624 the consideration of qualifications, technical aspects of the
625 proposal, and price. Further, any such contract for design-build

626 shall be procured pursuant to the criteria in s. 337.11(7).

627 Section 17. For the purpose of incorporating the amendment
628 made by this act to section 768.28, Florida Statutes, in a
629 reference thereto, subsection (6) of section 373.1395, Florida
630 Statutes, is reenacted to read:

631 373.1395 Limitation on liability of water management
632 district with respect to areas made available to the public for
633 recreational purposes without charge.—

634 (6) This section does not relieve any water management
635 district of any liability that would otherwise exist for gross
636 negligence or a deliberate, willful, or malicious injury to a
637 person or property. This section does not create or increase the
638 liability of any water management district or person beyond that
639 which is authorized by s. 768.28.

640 Section 18. For the purpose of incorporating the amendment
641 made by this act to section 768.28, Florida Statutes, in a
642 reference thereto, paragraph (a) of subsection (3) of section
643 375.251, Florida Statutes, is reenacted to read:

644 375.251 Limitation on liability of persons making
645 available to public certain areas for recreational purposes
646 without charge.—

647 (3)(a) An owner of an area who enters into a written
648 agreement concerning the area with a state agency for outdoor
649 recreational purposes, where such agreement recognizes that the
650 state agency is responsible for personal injury, loss, or damage

651 resulting in whole or in part from the state agency's use of the
652 area under the terms of the agreement subject to the limitations
653 and conditions specified in s. 768.28, owes no duty of care to
654 keep the area safe for entry or use by others, or to give
655 warning to persons entering or going on the area of any
656 hazardous conditions, structures, or activities thereon. An
657 owner who enters into a written agreement concerning the area
658 with a state agency for outdoor recreational purposes:

659 1. Is not presumed to extend any assurance that the area
660 is safe for any purpose;

661 2. Does not incur any duty of care toward a person who
662 goes on the area that is subject to the agreement; or

663 3. Is not liable or responsible for any injury to persons
664 or property caused by the act or omission of a person who goes
665 on the area that is subject to the agreement.

666 Section 19. For the purpose of incorporating the amendment
667 made by this act to section 768.28, Florida Statutes, in a
668 reference thereto, subsection (9) of section 381.0056, Florida
669 Statutes, is reenacted to read:

670 381.0056 School health services program.—

671 (9) Any health care entity that provides school health
672 services under contract with the department pursuant to a school
673 health services plan developed under this section, and as part
674 of a school nurse services public-private partnership, is deemed
675 to be a corporation acting primarily as an instrumentality of

676 the state solely for the purpose of limiting liability pursuant
677 to s. 768.28(5). The limitations on tort actions contained in s.
678 768.28(5) shall apply to any action against the entity with
679 respect to the provision of school health services, if the
680 entity is acting within the scope of and pursuant to guidelines
681 established in the contract or by rule of the department. The
682 contract must require the entity, or the partnership on behalf
683 of the entity, to obtain general liability insurance coverage,
684 with any additional endorsement necessary to insure the entity
685 for liability assumed by its contract with the department. The
686 Legislature intends that insurance be purchased by entities, or
687 by partnerships on behalf of the entity, to cover all liability
688 claims, and under no circumstances shall the state or the
689 department be responsible for payment of any claims or defense
690 costs for claims brought against the entity or its subcontractor
691 for services performed under the contract with the department.
692 This subsection does not preclude consideration by the
693 Legislature for payment by the state of any claims bill
694 involving an entity contracting with the department pursuant to
695 this section.

696 Section 20. For the purpose of incorporating the amendment
697 made by this act to section 768.28, Florida Statutes, in a
698 reference thereto, subsection (3) of section 393.075, Florida
699 Statutes, is reenacted to read:

700 393.075 General liability coverage.—

701 (3) This section shall not be construed as designating or
 702 not designating that a person who owns or operates a foster care
 703 facility or group home facility as described in this section or
 704 any other person is an employee or agent of the state. Nothing
 705 in this section amends, expands, or supersedes the provisions of
 706 s. 768.28.

707 Section 21. For the purpose of incorporating the amendment
 708 made by this act to section 768.28, Florida Statutes, in a
 709 reference thereto, paragraph (g) of subsection (10) of section
 710 395.1055, Florida Statutes, is reenacted to read:

711 395.1055 Rules and enforcement.—

712 (10) The agency shall establish a pediatric cardiac
 713 technical advisory panel, pursuant to s. 20.052, to develop
 714 procedures and standards for measuring outcomes of pediatric
 715 cardiac catheterization programs and pediatric cardiovascular
 716 surgery programs.

717 (g) Panel members are agents of the state for purposes of
 718 s. 768.28 throughout the good faith performance of the duties
 719 assigned to them by the Secretary of Health Care Administration.

720 Section 22. For the purpose of incorporating the amendment
 721 made by this act to section 768.28, Florida Statutes, in a
 722 reference thereto, paragraph (c) of subsection (17) of section
 723 403.706, Florida Statutes, is reenacted to read:

724 403.706 Local government solid waste responsibilities.—

725 (17) To effect the purposes of this part, counties and

726 municipalities are authorized, in addition to other powers
727 granted pursuant to this part:

728 (c) To waive sovereign immunity and immunity from suit in
729 federal court by vote of the governing body of the county or
730 municipality to the extent necessary to carry out the authority
731 granted in paragraphs (a) and (b), notwithstanding the
732 limitations prescribed in s. 768.28.

733 Section 23. For the purpose of incorporating the amendment
734 made by this act to section 768.28, Florida Statutes, in a
735 reference thereto, subsection (1), paragraph (a) of subsection
736 (2), and paragraph (a) of subsection (3) of section 409.993,
737 Florida Statutes, are reenacted to read:

738 409.993 Lead agencies and subcontractor liability.—

739 (1) FINDINGS.—

740 (a) The Legislature finds that the state has traditionally
741 provided foster care services to children who are the
742 responsibility of the state. As such, foster children have not
743 had the right to recover for injuries beyond the limitations
744 specified in s. 768.28. The Legislature has determined that
745 foster care and related services should be outsourced pursuant
746 to this section and that the provision of such services is of
747 paramount importance to the state. The purpose of such
748 outsourcing is to increase the level of safety, security, and
749 stability of children who are or become the responsibility of
750 the state. One of the components necessary to secure a safe and

751 | stable environment for such children is the requirement that
752 | private providers maintain liability insurance. As such,
753 | insurance needs to be available and remain available to
754 | nongovernmental foster care and related services providers
755 | without the resources of such providers being significantly
756 | reduced by the cost of maintaining such insurance.

757 | (b) The Legislature further finds that, by requiring the
758 | following minimum levels of insurance, children in outsourced
759 | foster care and related services will gain increased protection
760 | and rights of recovery in the event of injury than currently
761 | provided in s. 768.28.

762 | (2) LEAD AGENCY LIABILITY.—

763 | (a) Other than an entity to which s. 768.28 applies, an
764 | eligible community-based care lead agency, or its employees or
765 | officers, except as otherwise provided in paragraph (b), shall,
766 | as a part of its contract, obtain a minimum of \$1 million per
767 | occurrence with a policy period aggregate limit of \$3 million in
768 | general liability insurance coverage. The lead agency must also
769 | require that staff who transport client children and families in
770 | their personal automobiles in order to carry out their job
771 | responsibilities obtain minimum bodily injury liability
772 | insurance in the amount of \$100,000 per person per any one
773 | automobile accident, and subject to such limits for each person,
774 | \$300,000 for all damages resulting from any one automobile
775 | accident, on their personal automobiles. In lieu of personal

776 motor vehicle insurance, the lead agency's casualty, liability,
777 or motor vehicle insurance carrier may provide nonowned
778 automobile liability coverage. This insurance provides liability
779 insurance for an automobile that the lead agency uses in
780 connection with the lead agency's business but does not own,
781 lease, rent, or borrow. This coverage includes an automobile
782 owned by an employee of the lead agency or a member of the
783 employee's household but only while the automobile is used in
784 connection with the lead agency's business. The nonowned
785 automobile coverage for the lead agency applies as excess
786 coverage over any other collectible insurance. The personal
787 automobile policy for the employee of the lead agency shall be
788 primary insurance, and the nonowned automobile coverage of the
789 lead agency acts as excess insurance to the primary insurance.
790 The lead agency shall provide a minimum limit of \$1 million in
791 nonowned automobile coverage. In a tort action brought against
792 such a lead agency or employee, net economic damages shall be
793 limited to \$2 million per liability claim and \$200,000 per
794 automobile claim, including, but not limited to, past and future
795 medical expenses, wage loss, and loss of earning capacity,
796 offset by any collateral source payment paid or payable. In any
797 tort action brought against a lead agency, noneconomic damages
798 shall be limited to \$400,000 per claim. A claims bill may be
799 brought on behalf of a claimant pursuant to s. 768.28 for any
800 amount exceeding the limits specified in this paragraph. Any

801 offset of collateral source payments made as of the date of the
802 settlement or judgment shall be in accordance with s. 768.76.
803 The lead agency is not liable in tort for the acts or omissions
804 of its subcontractors or the officers, agents, or employees of
805 its subcontractors.

806 (3) SUBCONTRACTOR LIABILITY.—

807 (a) A subcontractor of an eligible community-based care
808 lead agency that is a direct provider of foster care and related
809 services to children and families, and its employees or
810 officers, except as otherwise provided in paragraph (b), must,
811 as a part of its contract, obtain a minimum of \$1 million per
812 occurrence with a policy period aggregate limit of \$3 million in
813 general liability insurance coverage. The subcontractor of a
814 lead agency must also require that staff who transport client
815 children and families in their personal automobiles in order to
816 carry out their job responsibilities obtain minimum bodily
817 injury liability insurance in the amount of \$100,000 per person
818 in any one automobile accident, and subject to such limits for
819 each person, \$300,000 for all damages resulting from any one
820 automobile accident, on their personal automobiles. In lieu of
821 personal motor vehicle insurance, the subcontractor's casualty,
822 liability, or motor vehicle insurance carrier may provide
823 nonowned automobile liability coverage. This insurance provides
824 liability insurance for automobiles that the subcontractor uses
825 in connection with the subcontractor's business but does not

HB 799

2022

826 own, lease, rent, or borrow. This coverage includes automobiles
827 owned by the employees of the subcontractor or a member of the
828 employee's household but only while the automobiles are used in
829 connection with the subcontractor's business. The nonowned
830 automobile coverage for the subcontractor applies as excess
831 coverage over any other collectible insurance. The personal
832 automobile policy for the employee of the subcontractor shall be
833 primary insurance, and the nonowned automobile coverage of the
834 subcontractor acts as excess insurance to the primary insurance.
835 The subcontractor shall provide a minimum limit of \$1 million in
836 nonowned automobile coverage. In a tort action brought against
837 such subcontractor or employee, net economic damages shall be
838 limited to \$2 million per liability claim and \$200,000 per
839 automobile claim, including, but not limited to, past and future
840 medical expenses, wage loss, and loss of earning capacity,
841 offset by any collateral source payment paid or payable. In a
842 tort action brought against such subcontractor, noneconomic
843 damages shall be limited to \$400,000 per claim. A claims bill
844 may be brought on behalf of a claimant pursuant to s. 768.28 for
845 any amount exceeding the limits specified in this paragraph. Any
846 offset of collateral source payments made as of the date of the
847 settlement or judgment shall be in accordance with s. 768.76.

848 Section 24. For the purpose of incorporating the amendment
849 made by this act to section 768.28, Florida Statutes, in a
850 reference thereto, subsection (3) of section 455.221, Florida

851 Statutes, is reenacted to read:

852 455.221 Legal and investigative services.—

853 (3) Any person retained by the department under contract
 854 to review materials, make site visits, or provide expert
 855 testimony regarding any complaint or application filed with the
 856 department relating to a profession under the jurisdiction of
 857 the department shall be considered an agent of the department in
 858 determining the state insurance coverage and sovereign immunity
 859 protection applicability of ss. 284.31 and 768.28.

860 Section 25. For the purpose of incorporating the amendment
 861 made by this act to section 768.28, Florida Statutes, in a
 862 reference thereto, subsection (5) of section 455.32, Florida
 863 Statutes, is reenacted to read:

864 455.32 Management Privatization Act.—

865 (5) Any such corporation may hire staff as necessary to
 866 carry out its functions. Such staff are not public employees for
 867 the purposes of chapter 110 or chapter 112, except that the
 868 board of directors and the employees of the corporation are
 869 subject to the provisions of s. 112.061 and part III of chapter
 870 112. The provisions of s. 768.28 apply to each such corporation,
 871 which is deemed to be a corporation primarily acting as an
 872 instrumentality of the state but which is not an agency within
 873 the meaning of s. 20.03(11).

874 Section 26. For the purpose of incorporating the amendment
 875 made by this act to section 768.28, Florida Statutes, in a

HB 799

2022

876 reference thereto, subsection (3) of section 456.009, Florida
877 Statutes, is reenacted to read:

878 456.009 Legal and investigative services.—

879 (3) Any person retained by the department under contract
880 to review materials, make site visits, or provide expert
881 testimony regarding any complaint or application filed with the
882 department relating to a profession under the jurisdiction of
883 the department shall be considered an agent of the department in
884 determining the state insurance coverage and sovereign immunity
885 protection applicability of ss. 284.31 and 768.28.

886 Section 27. For the purpose of incorporating the amendment
887 made by this act to section 768.28, Florida Statutes, in a
888 reference thereto, paragraph (a) of subsection (15) of section
889 456.076, Florida Statutes, is reenacted to read:

890 456.076 Impaired practitioner programs.—

891 (15) (a) A consultant retained pursuant to this section and
892 a consultant's directors, officers, employees, or agents shall
893 be considered agents of the department for purposes of s. 768.28
894 while acting within the scope of the consultant's duties under
895 the contract with the department.

896 Section 28. For the purpose of incorporating the amendment
897 made by this act to section 768.28, Florida Statutes, in a
898 reference thereto, subsection (3) of section 471.038, Florida
899 Statutes, is reenacted to read:

900 471.038 Florida Engineers Management Corporation.—

901 (3) The Florida Engineers Management Corporation is
902 created to provide administrative, investigative, and
903 prosecutorial services to the board in accordance with the
904 provisions of chapter 455 and this chapter. The management
905 corporation may hire staff as necessary to carry out its
906 functions. Such staff are not public employees for the purposes
907 of chapter 110 or chapter 112, except that the board of
908 directors and the staff are subject to the provisions of s.
909 112.061. The provisions of s. 768.28 apply to the management
910 corporation, which is deemed to be a corporation primarily
911 acting as an instrumentality of the state, but which is not an
912 agency within the meaning of s. 20.03(11). The management
913 corporation shall:

914 (a) Be a Florida corporation not for profit, incorporated
915 under the provisions of chapter 617.

916 (b) Provide administrative, investigative, and
917 prosecutorial services to the board in accordance with the
918 provisions of chapter 455, this chapter, and the contract
919 required by this section.

920 (c) Receive, hold, and administer property and make only
921 prudent expenditures directly related to the responsibilities of
922 the board, and in accordance with the contract required by this
923 section.

924 (d) Be approved by the board, and the department, to
925 operate for the benefit of the board and in the best interest of

926 | the state.

927 | (e) Operate under a fiscal year that begins on July 1 of
928 | each year and ends on June 30 of the following year.

929 | (f) Have a seven-member board of directors, five of whom
930 | are to be appointed by the board and must be registrants
931 | regulated by the board and two of whom are to be appointed by
932 | the secretary and must be laypersons not regulated by the board.
933 | All appointments shall be for 4-year terms. No member shall
934 | serve more than two consecutive terms. Failure to attend three
935 | consecutive meetings shall be deemed a resignation from the
936 | board, and the vacancy shall be filled by a new appointment.

937 | (g) Select its officers in accordance with its bylaws. The
938 | members of the board of directors who were appointed by the
939 | board may be removed by the board.

940 | (h) Select the president of the management corporation,
941 | who shall also serve as executive director to the board, subject
942 | to approval of the board.

943 | (i) Use a portion of the interest derived from the
944 | management corporation account to offset the costs associated
945 | with the use of credit cards for payment of fees by applicants
946 | or licensees.

947 | (j) Operate under a written contract with the department
948 | which is approved by the board. The contract must provide for,
949 | but is not limited to:

950 | 1. Submission by the management corporation of an annual

951 budget that complies with board rules for approval by the board
952 and the department.

953 2. Annual certification by the board and the department
954 that the management corporation is complying with the terms of
955 the contract in a manner consistent with the goals and purposes
956 of the board and in the best interest of the state. This
957 certification must be reported in the board's minutes. The
958 contract must also provide for methods and mechanisms to resolve
959 any situation in which the certification process determines
960 noncompliance.

961 3. Funding of the management corporation through
962 appropriations allocated to the regulation of professional
963 engineers from the Professional Regulation Trust Fund.

964 4. The reversion to the board, or the state if the board
965 ceases to exist, of moneys, records, data, and property held in
966 trust by the management corporation for the benefit of the
967 board, if the management corporation is no longer approved to
968 operate for the board or the board ceases to exist. All records
969 and data in a computerized database shall be returned to the
970 department in a form that is compatible with the computerized
971 database of the department.

972 5. The securing and maintaining by the management
973 corporation, during the term of the contract and for all acts
974 performed during the term of the contract, of all liability
975 insurance coverages in an amount to be approved by the board to

976 defend, indemnify, and hold harmless the management corporation
977 and its officers and employees, the department and its
978 employees, and the state against all claims arising from state
979 and federal laws. Such insurance coverage must be with insurers
980 qualified and doing business in the state. The management
981 corporation must provide proof of insurance to the department.
982 The department and its employees and the state are exempt from
983 and are not liable for any sum of money which represents a
984 deductible, which sums shall be the sole responsibility of the
985 management corporation. Violation of this subparagraph shall be
986 grounds for terminating the contract.

987 6. Payment by the management corporation, out of its
988 allocated budget, to the department of all costs of
989 representation by the board counsel, including salary and
990 benefits, travel, and any other compensation traditionally paid
991 by the department to other board counsel.

992 7. Payment by the management corporation, out of its
993 allocated budget, to the department of all costs incurred by the
994 management corporation or the board for the Division of
995 Administrative Hearings of the Department of Management Services
996 and any other cost for utilization of these state services.

997 8. Payment by the management corporation, out of its
998 allocated budget, to the department of reasonable costs
999 associated with the contract monitor.

1000 (k) Provide for an annual financial audit of its financial

1001 accounts and records by an independent certified public
1002 accountant. The annual audit report shall include a management
1003 letter in accordance with s. 11.45 and a detailed supplemental
1004 schedule of expenditures for each expenditure category. The
1005 annual audit report must be submitted to the board, the
1006 department, and the Auditor General for review.

1007 (l) Provide for persons not employed by the corporation
1008 who are charged with the responsibility of receiving and
1009 depositing fee and fine revenues to have a faithful performance
1010 bond in such an amount and according to such terms as shall be
1011 determined in the contract.

1012 (m) Submit to the secretary, the board, and the
1013 Legislature, on or before October 1 of each year, a report on
1014 the status of the corporation which includes, but is not limited
1015 to, information concerning the programs and funds that have been
1016 transferred to the corporation. The report must include: the
1017 number of license applications received; the number approved and
1018 denied and the number of licenses issued; the number of
1019 examinations administered and the number of applicants who
1020 passed or failed the examination; the number of complaints
1021 received; the number determined to be legally sufficient; the
1022 number dismissed; the number determined to have probable cause;
1023 the number of administrative complaints issued and the status of
1024 the complaints; and the number and nature of disciplinary
1025 actions taken by the board.

1026 (n) Develop and submit to the department, performance
 1027 standards and measurable outcomes for the board to adopt by rule
 1028 in order to facilitate efficient and cost-effective regulation.

1029 Section 29. For the purpose of incorporating the amendment
 1030 made by this act to section 768.28, Florida Statutes, in a
 1031 reference thereto, paragraph (b) of subsection (11) of section
 1032 472.006, Florida Statutes, is reenacted to read:

1033 472.006 Department; powers and duties.—The department
 1034 shall:

1035 (11) Provide legal counsel for the board by contracting
 1036 with the Department of Legal Affairs, by retaining private
 1037 counsel pursuant to s. 287.059, or by providing department staff
 1038 counsel. The board shall periodically review and evaluate the
 1039 services provided by its board counsel. Fees and costs of such
 1040 counsel shall be paid from the General Inspection Trust Fund,
 1041 subject to ss. 215.37 and 472.011. All contracts for independent
 1042 legal counsel must provide for periodic review and evaluation by
 1043 the board and the department of services provided.

1044 (b) Any person retained by the department under contract
 1045 to review materials, make site visits, or provide expert
 1046 testimony regarding any complaint or application filed with the
 1047 department relating to the practice of surveying and mapping
 1048 shall be considered an agent of the department in determining
 1049 the state insurance coverage and sovereign immunity protection
 1050 applicability of ss. 284.31 and 768.28.

1051 Section 30. For the purpose of incorporating the amendment
 1052 made by this act to section 768.28, Florida Statutes, in a
 1053 reference thereto, subsection (7) of section 497.167, Florida
 1054 Statutes, is reenacted to read:

1055 497.167 Administrative matters.—

1056 (7) Any person retained by the department under contract
 1057 to review materials, make site visits, or provide expert
 1058 testimony regarding any complaint or application filed with the
 1059 department, relating to regulation under this chapter, shall be
 1060 considered an agent of the department in determining the state
 1061 insurance coverage and sovereign immunity protection
 1062 applicability of ss. 284.31 and 768.28.

1063 Section 31. For the purpose of incorporating the amendment
 1064 made by this act to section 768.28, Florida Statutes, in a
 1065 reference thereto, subsection (2) of section 513.118, Florida
 1066 Statutes, is reenacted to read:

1067 513.118 Conduct on premises; refusal of service.—

1068 (2) The operator of a recreational vehicle park may
 1069 request that a transient guest or visitor who violates
 1070 subsection (1) leave the premises immediately. A person who
 1071 refuses to leave the premises commits the offense of trespass as
 1072 provided in s. 810.08, and the operator may call a law
 1073 enforcement officer to have the person and his or her property
 1074 removed under the supervision of the officer. A law enforcement
 1075 officer is not liable for any claim involving the removal of the

1076 person or property from the recreational vehicle park under this
1077 section, except as provided in s. 768.28. If conditions do not
1078 allow for immediate removal of the person's property, he or she
1079 may arrange a reasonable time, not to exceed 48 hours, with the
1080 operator to come remove the property, accompanied by a law
1081 enforcement officer.

1082 Section 32. For the purpose of incorporating the amendment
1083 made by this act to section 768.28, Florida Statutes, in a
1084 reference thereto, subsection (1) of section 548.046, Florida
1085 Statutes, is reenacted to read:

1086 548.046 Physician's attendance at match; examinations;
1087 cancellation of match.—

1088 (1) The commission, or the commission representative,
1089 shall assign to each match at least one physician who shall
1090 observe the physical condition of the participants and advise
1091 the commissioner or commission representative in charge and the
1092 referee of the participants' conditions before, during, and
1093 after the match. The commission shall establish a schedule of
1094 fees for the physician's services. The physician's fee shall be
1095 paid by the promoter of the match attended by the physician. The
1096 physician shall be considered an agent of the commission in
1097 determining the state insurance coverage and sovereign immunity
1098 protection applicability of ss. 284.31 and 768.28.

1099 Section 33. For the purpose of incorporating the amendment
1100 made by this act to section 768.28, Florida Statutes, in a

1101 reference thereto, subsection (8) of section 556.106, Florida
 1102 Statutes, is reenacted to read:

1103 556.106 Liability of the member operator, excavator, and
 1104 system.—

1105 (8) Any liability of the state, its agencies, or its
 1106 subdivisions which arises out of this chapter is subject to the
 1107 provisions of s. 768.28.

1108 Section 34. For the purpose of incorporating the amendment
 1109 made by this act to section 768.28, Florida Statutes, in a
 1110 reference thereto, paragraph (e) of subsection (4) of section
 1111 589.19, Florida Statutes, is reenacted to read:

1112 589.19 Creation of certain state forests; naming of
 1113 certain state forests; Operation Outdoor Freedom Program.—

1114 (4)

1115 (e)1. A private landowner who provides land for
 1116 designation and use as an Operation Outdoor Freedom Program
 1117 hunting site shall have limited liability pursuant to s.
 1118 375.251.

1119 2. A private landowner who consents to the designation and
 1120 use of land as part of the Operation Outdoor Freedom Program
 1121 without compensation shall be considered a volunteer, as defined
 1122 in s. 110.501, and shall be covered by state liability
 1123 protection pursuant to s. 768.28, including s. 768.28(9).

1124 3. This subsection does not:

1125 a. Relieve any person of liability that would otherwise

1126 exist for deliberate, willful, or malicious injury to persons or
 1127 property.

1128 b. Create or increase the liability of any person.

1129 Section 35. For the purpose of incorporating the amendment
 1130 made by this act to section 768.28, Florida Statutes, in a
 1131 reference thereto, paragraph (c) of subsection (2) of section
 1132 723.0611, Florida Statutes, is reenacted to read:

1133 723.0611 Florida Mobile Home Relocation Corporation.—

1134 (2)

1135 (c) The corporation shall, for purposes of s. 768.28, be
 1136 considered an agency of the state. Agents or employees of the
 1137 corporation, members of the board of directors of the
 1138 corporation, or representatives of the Division of Florida
 1139 Condominiums, Timeshares, and Mobile Homes shall be considered
 1140 officers, employees, or agents of the state, and actions against
 1141 them and the corporation shall be governed by s. 768.28.

1142 Section 36. For the purpose of incorporating the amendment
 1143 made by this act to section 768.28, Florida Statutes, in a
 1144 reference thereto, subsection (5) of section 760.11, Florida
 1145 Statutes, is reenacted to read:

1146 760.11 Administrative and civil remedies; construction.—

1147 (5) In any civil action brought under this section, the
 1148 court may issue an order prohibiting the discriminatory practice
 1149 and providing affirmative relief from the effects of the
 1150 practice, including back pay. The court may also award

1151 compensatory damages, including, but not limited to, damages for
1152 mental anguish, loss of dignity, and any other intangible
1153 injuries, and punitive damages. The provisions of ss. 768.72 and
1154 768.73 do not apply to this section. The judgment for the total
1155 amount of punitive damages awarded under this section to an
1156 aggrieved person shall not exceed \$100,000. In any action or
1157 proceeding under this subsection, the court, in its discretion,
1158 may allow the prevailing party a reasonable attorney's fee as
1159 part of the costs. It is the intent of the Legislature that this
1160 provision for attorney's fees be interpreted in a manner
1161 consistent with federal case law involving a Title VII action.
1162 The right to trial by jury is preserved in any such private
1163 right of action in which the aggrieved person is seeking
1164 compensatory or punitive damages, and any party may demand a
1165 trial by jury. The commission's determination of reasonable
1166 cause is not admissible into evidence in any civil proceeding,
1167 including any hearing or trial, except to establish for the
1168 court the right to maintain the private right of action. A civil
1169 action brought under this section shall be commenced no later
1170 than 1 year after the date of determination of reasonable cause
1171 by the commission. The commencement of such action shall divest
1172 the commission of jurisdiction of the complaint, except that the
1173 commission may intervene in the civil action as a matter of
1174 right. Notwithstanding the above, the state and its agencies and
1175 subdivisions shall not be liable for punitive damages. The total

1176 amount of recovery against the state and its agencies and
 1177 subdivisions shall not exceed the limitation as set forth in s.
 1178 768.28(5).

1179 Section 37. For the purpose of incorporating the amendment
 1180 made by this act to section 768.28, Florida Statutes, in a
 1181 reference thereto, subsection (5) of section 766.1115, Florida
 1182 Statutes, is reenacted to read:

1183 766.1115 Health care providers; creation of agency
 1184 relationship with governmental contractors.—

1185 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
 1186 contractor must provide written notice to each patient, or the
 1187 patient's legal representative, receipt of which must be
 1188 acknowledged in writing, that the provider is an agent of the
 1189 governmental contractor and that the exclusive remedy for injury
 1190 or damage suffered as the result of any act or omission of the
 1191 provider or of any employee or agent thereof acting within the
 1192 scope of duties pursuant to the contract is by commencement of
 1193 an action pursuant to the provisions of s. 768.28. With respect
 1194 to any federally funded community health center, the notice
 1195 requirements may be met by posting in a place conspicuous to all
 1196 persons a notice that the federally funded community health
 1197 center is an agent of the governmental contractor and that the
 1198 exclusive remedy for injury or damage suffered as the result of
 1199 any act or omission of the provider or of any employee or agent
 1200 thereof acting within the scope of duties pursuant to the

1201 contract is by commencement of an action pursuant to the
 1202 provisions of s. 768.28.

1203 Section 38. For the purpose of incorporating the amendment
 1204 made by this act to section 768.28, Florida Statutes, in a
 1205 reference thereto, subsection (2) of section 766.112, Florida
 1206 Statutes, is reenacted to read:

1207 766.112 Comparative fault.—

1208 (2) In an action for damages for personal injury or
 1209 wrongful death arising out of medical negligence, whether in
 1210 contract or tort, when an apportionment of damages pursuant to
 1211 s. 768.81 is attributed to a board of trustees of a state
 1212 university, the court shall enter judgment against the board of
 1213 trustees on the basis of the board's percentage of fault and not
 1214 on the basis of the doctrine of joint and several liability. The
 1215 sole remedy available to a claimant to collect a judgment or
 1216 settlement against a board of trustees, subject to the
 1217 provisions of this subsection, shall be pursuant to s. 768.28.

1218 Section 39. For the purpose of incorporating the amendment
 1219 made by this act to section 768.28, Florida Statutes, in a
 1220 reference thereto, subsection (3) of section 768.1355, Florida
 1221 Statutes, is reenacted to read:

1222 768.1355 Florida Volunteer Protection Act.—

1223 (3) Members of elected or appointed boards, councils, and
 1224 commissions of the state, counties, municipalities, authorities,
 1225 and special districts shall incur no civil liability and shall

1226 have immunity from suit as provided in s. 768.28 for acts or
1227 omissions by members relating to members' conduct of their
1228 official duties. It is the intent of the Legislature to
1229 encourage our best and brightest people to serve on elected and
1230 appointed boards, councils, and commissions.

1231 Section 40. For the purpose of incorporating the amendment
1232 made by this act to section 768.28, Florida Statutes, in a
1233 reference thereto, subsection (4) of section 768.295, Florida
1234 Statutes, is reenacted to read:

1235 768.295 Strategic Lawsuits Against Public Participation
1236 (SLAPP) prohibited.—

1237 (4) A person or entity sued by a governmental entity or
1238 another person in violation of this section has a right to an
1239 expeditious resolution of a claim that the suit is in violation
1240 of this section. A person or entity may move the court for an
1241 order dismissing the action or granting final judgment in favor
1242 of that person or entity. The person or entity may file a motion
1243 for summary judgment, together with supplemental affidavits,
1244 seeking a determination that the claimant's or governmental
1245 entity's lawsuit has been brought in violation of this section.
1246 The claimant or governmental entity shall thereafter file a
1247 response and any supplemental affidavits. As soon as
1248 practicable, the court shall set a hearing on the motion, which
1249 shall be held at the earliest possible time after the filing of
1250 the claimant's or governmental entity's response. The court may

1251 | award, subject to the limitations in s. 768.28, the party sued
 1252 | by a governmental entity actual damages arising from a
 1253 | governmental entity's violation of this section. The court shall
 1254 | award the prevailing party reasonable attorney fees and costs
 1255 | incurred in connection with a claim that an action was filed in
 1256 | violation of this section.

1257 | Section 41. For the purpose of incorporating the amendment
 1258 | made by this act to section 768.28, Florida Statutes, in a
 1259 | reference thereto, subsection (2) of section 944.713, Florida
 1260 | Statutes, is reenacted to read:

1261 | 944.713 Insurance against liability.—

1262 | (2) The contract shall provide for indemnification of the
 1263 | state by the private vendor for any liabilities incurred up to
 1264 | the limits provided under s. 768.28(5). The contract shall
 1265 | provide that the private vendor, or the insurer of the private
 1266 | vendor, is liable to pay any claim or judgment for any one
 1267 | person which does not exceed the sum of \$100,000 or any claim or
 1268 | judgment, or portions thereof, which, when totaled with all
 1269 | other claims or judgments arising out of the same incident or
 1270 | occurrence, does not exceed the sum of \$200,000. In addition,
 1271 | the contractor must agree to defend, hold harmless, and
 1272 | indemnify the department against any and all actions, claims,
 1273 | damages and losses, including costs and attorney's fees.

1274 | Section 42. For the purpose of incorporating the amendment
 1275 | made by this act to section 768.28, Florida Statutes, in a

1276 reference thereto, section 946.5026, Florida Statutes, is
 1277 reenacted to read:

1278 946.5026 Sovereign immunity in tort actions.—The
 1279 provisions of s. 768.28 shall be applicable to the corporation
 1280 established under this part, which is deemed to be a corporation
 1281 primarily acting as an instrumentality of the state.

1282 Section 43. For the purpose of incorporating the amendment
 1283 made by this act to section 768.28, Florida Statutes, in a
 1284 reference thereto, subsection (3) of section 946.514, Florida
 1285 Statutes, is reenacted to read:

1286 946.514 Civil rights of inmates; inmates not state
 1287 employees; liability of corporation for inmate injuries.—

1288 (3) The corporation is liable for inmate injury to the
 1289 extent specified in s. 768.28; however, the members of the board
 1290 of directors are not individually liable to any inmate for any
 1291 injury sustained in any correctional work program operated by
 1292 the corporation.

1293 Section 44. For the purpose of incorporating the amendment
 1294 made by this act to section 768.28, Florida Statutes, in a
 1295 reference thereto, subsections (5), (6), and (7) of section
 1296 961.06, Florida Statutes, are reenacted to read:

1297 961.06 Compensation for wrongful incarceration.—

1298 (5) Before the department approves the application for
 1299 compensation, the wrongfully incarcerated person must sign a
 1300 release and waiver on behalf of the wrongfully incarcerated

HB 799

2022

1301 person and his or her heirs, successors, and assigns, forever
1302 releasing the state or any agency, instrumentality, or any
1303 political subdivision thereof, or any other entity subject to s.
1304 768.28, from all present or future claims that the wrongfully
1305 incarcerated person or his or her heirs, successors, or assigns
1306 may have against such entities arising out of the facts in
1307 connection with the wrongful conviction for which compensation
1308 is being sought under the act.

1309 (6) (a) A wrongfully incarcerated person may not submit an
1310 application for compensation under this act if the person has a
1311 lawsuit pending against the state or any agency,
1312 instrumentality, or any political subdivision thereof, or any
1313 other entity subject to the provisions of s. 768.28, in state or
1314 federal court requesting compensation arising out of the facts
1315 in connection with the claimant's conviction and incarceration.

1316 (b) A wrongfully incarcerated person may not submit an
1317 application for compensation under this act if the person is the
1318 subject of a claim bill pending for claims arising out of the
1319 facts in connection with the claimant's conviction and
1320 incarceration.

1321 (c) Once an application is filed under this act, a
1322 wrongfully incarcerated person may not pursue recovery under a
1323 claim bill until the final disposition of the application.

1324 (d) Any amount awarded under this act is intended to
1325 provide the sole compensation for any and all present and future

1326 claims arising out of the facts in connection with the
1327 claimant's conviction and incarceration. Upon notification by
1328 the department that an application meets the requirements of
1329 this act, a wrongfully incarcerated person may not recover under
1330 a claim bill.

1331 (e) Any compensation awarded under a claim bill shall be
1332 the sole redress for claims arising out of the facts in
1333 connection with the claimant's conviction and incarceration and,
1334 upon any award of compensation to a wrongfully incarcerated
1335 person under a claim bill, the person may not receive
1336 compensation under this act.

1337 (7) Any payment made under this act does not constitute a
1338 waiver of any defense of sovereign immunity or an increase in
1339 the limits of liability on behalf of the state or any person
1340 subject to the provisions of s. 768.28 or other law.

1341 Section 45. For the purpose of incorporating the amendment
1342 made by this act to section 768.28, Florida Statutes, in a
1343 reference thereto, paragraph (h) of subsection (12) of section
1344 1002.33, Florida Statutes, is reenacted to read:

1345 1002.33 Charter schools.—

1346 (12) EMPLOYEES OF CHARTER SCHOOLS.—

1347 (h) For the purposes of tort liability, the charter
1348 school, including its governing body and employees, shall be
1349 governed by s. 768.28. This paragraph does not include any for-
1350 profit entity contracted by the charter school or its governing

1351 body.

1352 Section 46. For the purpose of incorporating the amendment
 1353 made by this act to section 768.28, Florida Statutes, in a
 1354 reference thereto, paragraph (b) of subsection (6) of section
 1355 1002.333, Florida Statutes, is reenacted to read:

1356 1002.333 Persistently low-performing schools.—

1357 (6) STATUTORY AUTHORITY.—

1358 (b) For the purposes of tort liability, the hope operator,
 1359 the school of hope, and its employees or agents shall be
 1360 governed by s. 768.28. The sponsor shall not be liable for civil
 1361 damages under state law for the employment actions or personal
 1362 injury, property damage, or death resulting from an act or
 1363 omission of a hope operator, the school of hope, or its
 1364 employees or agents. This paragraph does not include any for-
 1365 profit entity contracted by the charter school or its governing
 1366 body.

1367 Section 47. For the purpose of incorporating the amendment
 1368 made by this act to section 768.28, Florida Statutes, in a
 1369 reference thereto, subsection (17) of section 1002.34, Florida
 1370 Statutes, is reenacted to read:

1371 1002.34 Charter technical career centers.—

1372 (17) IMMUNITY.—For the purposes of tort liability, the
 1373 governing body and employees of a center are governed by s.
 1374 768.28.

1375 Section 48. For the purpose of incorporating the amendment

1376 made by this act to section 768.28, Florida Statutes, in a
 1377 reference thereto, paragraph (1) of subsection (3) of section
 1378 1002.55, Florida Statutes, is reenacted to read:

1379 1002.55 School-year prekindergarten program delivered by
 1380 private prekindergarten providers.—

1381 (3) To be eligible to deliver the prekindergarten program,
 1382 a private prekindergarten provider must meet each of the
 1383 following requirements:

1384 (1) Notwithstanding paragraph (j), for a private
 1385 prekindergarten provider that is a state agency or a subdivision
 1386 thereof, as defined in s. 768.28(2), the provider must agree to
 1387 notify the coalition of any additional liability coverage
 1388 maintained by the provider in addition to that otherwise
 1389 established under s. 768.28. The provider shall indemnify the
 1390 coalition to the extent permitted by s. 768.28. Notwithstanding
 1391 paragraph (j), for a child development program that is
 1392 accredited by a national accrediting body and operates on a
 1393 military installation that is certified by the United States
 1394 Department of Defense, the provider may demonstrate liability
 1395 coverage by affirming that it is subject to the Federal Tort
 1396 Claims Act, 28 U.S.C. ss. 2671 et seq.

1397 Section 49. For the purpose of incorporating the amendment
 1398 made by this act to section 768.28, Florida Statutes, in a
 1399 reference thereto, subsection (10) of section 1002.83, Florida
 1400 Statutes, is reenacted to read:

1401 1002.83 Early learning coalitions.—
 1402 (10) For purposes of tort liability, each member or
 1403 employee of an early learning coalition shall be governed by s.
 1404 768.28.
 1405 Section 50. For the purpose of incorporating the amendment
 1406 made by this act to section 768.28, Florida Statutes, in a
 1407 reference thereto, paragraph (p) of subsection (1) of section
 1408 1002.88, Florida Statutes, is reenacted to read:
 1409 1002.88 School readiness program provider standards;
 1410 eligibility to deliver the school readiness program.—
 1411 (1) To be eligible to deliver the school readiness
 1412 program, a school readiness program provider must:
 1413 (p) Notwithstanding paragraph (m), for a provider that is
 1414 a state agency or a subdivision thereof, as defined in s.
 1415 768.28(2), agree to notify the coalition of any additional
 1416 liability coverage maintained by the provider in addition to
 1417 that otherwise established under s. 768.28. The provider shall
 1418 indemnify the coalition to the extent permitted by s. 768.28.
 1419 Notwithstanding paragraph (m), for a child development program
 1420 that is accredited by a national accrediting body and operates
 1421 on a military installation that is certified by the United
 1422 States Department of Defense, the provider may demonstrate
 1423 liability coverage by affirming that it is subject to the
 1424 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.
 1425 Section 51. For the purpose of incorporating the amendment

HB 799

2022

1426 made by this act to section 768.28, Florida Statutes, in a
1427 reference thereto, subsection (1) of section 1006.24, Florida
1428 Statutes, is reenacted to read:

1429 1006.24 Tort liability; liability insurance.—

1430 (1) Each district school board shall be liable for tort
1431 claims arising out of any incident or occurrence involving a
1432 school bus or other motor vehicle owned, maintained, operated,
1433 or used by the district school board to transport persons, to
1434 the same extent and in the same manner as the state or any of
1435 its agencies or subdivisions is liable for tort claims under s.
1436 768.28, except that the total liability to persons being
1437 transported for all claims or judgments of such persons arising
1438 out of the same incident or occurrence shall not exceed an
1439 amount equal to \$5,000 multiplied by the rated seating capacity
1440 of the school bus or other vehicle, as determined by rules of
1441 the State Board of Education, or \$100,000, whichever is greater.
1442 The provisions of s. 768.28 apply to all claims or actions
1443 brought against district school boards, as authorized in this
1444 subsection.

1445 Section 52. For the purpose of incorporating the amendment
1446 made by this act to section 768.28, Florida Statutes, in a
1447 reference thereto, paragraph (b) of subsection (2) of section
1448 1006.261, Florida Statutes, is reenacted to read:

1449 1006.261 Use of school buses for public purposes.—

1450 (2)

HB 799

2022

1451 (b) For purposes of liability for negligence, state
1452 agencies or subdivisions as defined in s. 768.28(2) shall be
1453 covered by s. 768.28. Every other corporation or organization
1454 shall provide liability insurance coverage in the minimum
1455 amounts of \$100,000 on any claim or judgment and \$200,000 on all
1456 claims and judgments arising from the same incident or
1457 occurrence.

1458 Section 53. This act shall take effect July 1, 2022.