



660804

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
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	.	
	.	

The Committee on Judiciary (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) of section 768.28, Florida
Statutes, is amended to read:

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

(5) (a) The state and its agencies and subdivisions are



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12 ~~shall be~~ liable for tort claims in the same manner and to the
13 same extent as a private individual under like circumstances,
14 but liability does ~~shall~~ not include punitive damages or
15 interest for the period before judgment. ~~Neither~~ The state, ~~nor~~
16 its agencies, and its ~~or~~ subdivisions are not ~~shall be~~ liable to
17 pay a claim or a judgment by any one person which exceeds the
18 sum of \$300,000 ~~\$200,000~~ or any claim or judgment, or portions
19 thereof, which, when totaled with all other claims or judgments
20 paid by the state or its agencies or subdivisions arising out of
21 the same incident or occurrence, exceeds the sum of \$400,000
22 ~~\$300,000~~. However, a judgment or judgments may be claimed and
23 rendered in excess of these amounts and may be settled and paid
24 pursuant to this section ~~act~~ up to \$300,000 ~~\$200,000~~ or
25 \$400,000, as applicable. The \$300,000, ~~as the case may be;~~ and
26 ~~that~~ portion of the judgment that exceeds these amounts may be
27 reported to the Legislature, but may be paid in part or in whole
28 only by further act of the Legislature.

29 (b) Notwithstanding the limited waiver of sovereign
30 immunity under paragraph (a) ~~provided herein~~, the state or an
31 agency or subdivision thereof may agree, within the limits of
32 insurance coverage provided, to settle a claim made or a
33 judgment rendered against it without further action by the
34 Legislature, but the state or agency or subdivision thereof does
35 ~~shall~~ not waive ~~be deemed to have waived~~ any defense of
36 sovereign immunity or increase ~~to have increased~~ the limits of
37 its liability as a result of its obtaining insurance coverage
38 for tortious acts in excess of the \$300,000 ~~\$200,000~~ or \$400,000
39 ~~\$300,000~~ waiver provided in paragraph (a) ~~above~~.

40 (c) The limitations of liability set forth in this



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41 subsection ~~shall~~ apply to the state and its agencies and
42 subdivisions whether or not the state or its agencies or
43 subdivisions possessed sovereign immunity before July 1, 1974.

44 (d) Beginning July 1, 2032, and on July 1 every 10 years
45 thereafter, the Department of Financial Services shall adjust
46 the limitations of liability in this subsection, rounded to the
47 nearest \$10,000, to reflect changes in the Consumer Price Index
48 for the Southeast or a successor index as calculated by the
49 United States Department of Labor. After each adjustment, the
50 department must publish the adjusted liability limitation
51 amounts on its website which amounts shall apply to causes of
52 action accruing on or after the October 1 following the
53 adjustment date.

54 (e) ~~(b)~~ A municipality has a duty to allow the municipal law
55 enforcement agency to respond appropriately to protect persons
56 and property during a riot or an unlawful assembly based on the
57 availability of adequate equipment to its municipal law
58 enforcement officers and relevant state and federal laws. If the
59 governing body of a municipality or a person authorized by the
60 governing body of the municipality breaches that duty, the
61 municipality is civilly liable for any damages, including
62 damages arising from personal injury, wrongful death, or
63 property damages proximately caused by the municipality's breach
64 of duty. The sovereign immunity recovery limits in paragraph (a)
65 do not apply to an action under this paragraph.

66 Section 2. Sections 45.061, 110.504, 111.071, 163.01,
67 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
68 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,
69 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,



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70 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
71 589.19, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295,
72 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,
73 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida
74 Statutes, are reenacted for the purpose of incorporating the
75 amendments made by this act to s. 768.28, Florida Statutes, in
76 references thereto.

77 Section 3. This act applies to claims arising on or after
78 October 1, 2022.

79 Section 4. This act shall take effect October 1, 2022.

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81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete everything before the enacting clause
84 and insert:

85 A bill to be entitled

86 An act relating to sovereign immunity; amending s.
87 768.28, F.S.; increasing the statutory limits on
88 liability for tort claims against the state and its
89 agencies and subdivisions; requiring the Department of
90 Financial Services to adjust the limitations on tort
91 liability every 10 years after a specified date and
92 publish the adjustments on its website; reenacting ss.
93 45.061, 110.504, 111.071, 163.01, 190.043, 213.015,
94 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38,
95 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,
96 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32,
97 456.009, 456.076, 471.038, 472.006, 497.167, 513.118,
98 548.046, 556.106, 589.19, 723.0611, 760.11, 766.1115,



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99 766.112, 768.1355, 768.295, 944.713, 946.5026,
100 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55,
101 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to
102 incorporate the amendments made to s. 768.28, F.S., in
103 references thereto; providing applicability; providing
104 an effective date.