



801476

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2022	.	
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The Committee on Rules (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5), paragraph (a) of subsection (6),
and subsection (14) of section 768.28, Florida Statutes, are
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.—



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12 (5) (a) 1. The state and its agencies and subdivisions are
13 ~~shall be~~ liable for tort claims in the same manner and to the
14 same extent as a private individual under like circumstances,
15 but liability does ~~shall~~ not include punitive damages or
16 interest for the period before judgment. ~~Neither~~ The total
17 liability of the state, ~~nor~~ its agencies, and its ~~or~~
18 subdivisions shall be liable to pay a claim or a judgment is
19 limited to the amounts specified in this subparagraph:

20 a. For a county or municipality that has a population of
21 50,000 or less, including any constitutional officer of such
22 county, \$200,000 per claim and \$300,000 per occurrence.

23 b. For state universities, public colleges, subdivisions,
24 and other entities with sovereign immunity that are not a state
25 agency, county, county constitutional officer, or municipality,
26 \$200,000 per claim and \$300,000 per occurrence.

27 c. For a county or municipality that has a population of
28 more than 50,000 and up to 250,000, including any constitutional
29 officer of such county, \$300,000 per claim and \$400,000 per
30 occurrence.

31 d. For the state or a state agency or a county or a
32 municipality having a population of more than 250,000, including
33 any constitutional officer of such county, \$400,000 per claim
34 and \$600,000 per occurrence.

35 e. Regardless of the entity responsible, for a single
36 occurrence that results in more than 10 deaths, \$3 million in
37 economic damages.

38
39 If more than one governmental entity is responsible for the
40 damages, the total liability for all of the entities to pay a



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41 claim or judgment may not exceed the amount for the entity
42 having the highest liability limit.

43 2. A claim may be settled and paid within the amounts
44 authorized by this paragraph, and a judgment may be entered in
45 excess of the amounts in this paragraph. However, the ~~by any one~~
46 ~~person which exceeds the sum of \$200,000 or any claim or~~
47 ~~judgment, or portions thereof, which, when totaled with all~~
48 ~~other claims or judgments paid by the state or its agencies or~~
49 ~~subdivisions arising out of the same incident or occurrence,~~
50 ~~exceeds the sum of \$300,000. However, a judgment or judgments~~
51 ~~may be claimed and rendered in excess of these amounts and may~~
52 ~~be settled and paid pursuant to this act up to \$200,000 or~~
53 ~~\$300,000, as the case may be; and that portion of a the judgment~~
54 that exceeds ~~the these~~ amounts authorized may be reported to the
55 Legislature, and ~~but~~ may be paid in part or in whole only by
56 further act of the Legislature.

57 (b) Notwithstanding the limited waiver of sovereign
58 immunity under paragraph (a) ~~provided herein~~, the state or an
59 agency or subdivision thereof may agree, within the limits of
60 insurance coverage provided, to settle a claim made or a
61 judgment entered ~~rendered~~ against it without further action by
62 the Legislature, but the state or agency or subdivision thereof
63 ~~does shall~~ not wave ~~be deemed to have waived~~ any defense of
64 sovereign immunity or increase ~~to have increased~~ the limits of
65 its liability as a result of its obtaining insurance coverage
66 for tortious acts in excess of the amounts specified in
67 paragraph (a) ~~\$200,000 or \$300,000 waiver provided above.~~

68 (c) The limitations of liability set forth in this
69 subsection ~~shall~~ apply to the state and its agencies and



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70 subdivisions whether or not the state or its agencies or
71 subdivisions possessed sovereign immunity before July 1, 1974.

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

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

93 1. Such claim is for contribution pursuant to s. 768.31, it
94 must be so presented within 6 months after the judgment against
95 the tortfeasor seeking contribution has become final by lapse of
96 time for appeal or after appellate review or, if there is no
97 such judgment, within 6 months after the tortfeasor seeking
98 contribution has either discharged the common liability by



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99 payment or agreed, while the action is pending against her or
100 him, to discharge the common liability; ~~or~~

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

104 3. Such action arises from a violation of s. 794.011
105 involving a victim who was younger than the age of 16 at the
106 time of the act, the claimant may present the claim in writing
107 at any time pursuant to s. 95.11(9).

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

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

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

119 (c) An action arising from acts constituting a violation of
120 s. 794.011 involving a victim who was younger than the age of 16
121 at the time of the act may be commenced at any time pursuant to
122 s. 95.11(9).

123 Section 2. Sections 45.061, 110.504, 111.071, 163.01,
124 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
125 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,
126 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,
127 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,



128 589.19, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295,
129 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,
130 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida
131 Statutes, are reenacted for the purpose of incorporating the
132 amendments made by this act to s. 768.28, Florida Statutes, in
133 references thereto.

134 Section 3. This act applies to claims accruing on or after
135 October 1, 2022.

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

137

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

139 And the title is amended as follows:

140 Delete everything before the enacting clause
141 and insert:

142 A bill to be entitled
143 An act relating to sovereign immunity; amending s.
144 768.28, F.S.; increasing the statutory limits on
145 liability for tort claims against the state and its
146 agencies and subdivisions; revising exceptions
147 relating to instituting actions on claims against the
148 state or one of its agencies and to the statute of
149 limitations for such claims; reenacting ss. 45.061,
150 110.504, 111.071, 163.01, 190.043, 213.015, 252.51,
151 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13,
152 337.19, 341.302, 373.1395, 375.251, 381.0056, 393.075,
153 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,
154 456.076, 471.038, 472.006, 497.167, 513.118, 548.046,
155 556.106, 589.19, 723.0611, 760.11, 766.1115, 766.112,
156 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06,



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157 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88,
158 1006.24, and 1006.261, F.S., to incorporate the
159 amendments made to s. 768.28, F.S., in references
160 thereto; providing applicability; providing an
161 effective date.