

26 589.19(4) (e), 723.0611(2) (c), 760.11(5), 766.1115(5),
 27 766.112(2), 768.1355(3), 768.295(4), 944.713(2),
 28 946.5026, 946.514(3), 961.06(5), (6), and (7),
 29 1002.33(12) (h), 1002.333(6) (b), 1002.34(17),
 30 1002.55(3) (1), 1002.83(10), 1002.88(1) (p), 1006.24(1),
 31 and 1006.261(2) (b), F.S., to incorporate the
 32 amendments made to s. 768.28, F.S., in references
 33 thereto; providing an effective date.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

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

40 768.28 Waiver of sovereign immunity in tort actions;
 41 recovery limits; civil liability for damages caused during a
 42 riot; limitation on attorney fees; statute of limitations;
 43 exclusions; indemnification; risk management programs.—

44 (5) (a) The state and its agencies and subdivisions shall
 45 be liable for tort claims in the same manner and to the same
 46 extent as a private individual under like circumstances, but
 47 liability shall not include punitive damages or interest for the
 48 period before judgment. Neither the state nor its agencies or
 49 subdivisions shall be liable to pay a claim or a judgment by any
 50 one person which exceeds the sum of \$1 million ~~\$200,000 or any~~

51 ~~claim or judgment, or portions thereof, which, when totaled with~~
52 ~~all other claims or judgments paid by the state or its agencies~~
53 ~~or subdivisions arising out of the same incident or occurrence,~~
54 ~~exceeds the sum of \$300,000.~~ However, a judgment or judgments
55 may be claimed and rendered in excess of this amount ~~these~~
56 ~~amounts and may be settled and paid pursuant to this act up to~~
57 \$1 million per person, ~~\$200,000 or \$300,000, as the case may be;~~
58 and that portion of the judgment that exceeds this amount ~~these~~
59 ~~amounts~~ may be reported to the Legislature, and ~~but~~ may be paid
60 in part or in whole ~~only~~ by further act of the Legislature.

61 (b) Notwithstanding the limited waiver of sovereign
62 immunity provided in paragraph (a) herein, the state or an
63 agency or subdivision thereof may agree, ~~within the limits of~~
64 ~~insurance coverage provided,~~ to settle a claim made or a
65 judgment rendered against it in excess of the waiver provided in
66 paragraph (a) without further action by the Legislature, but the
67 state or agency or subdivision thereof shall not be deemed to
68 have waived any defense of sovereign immunity or to have
69 increased the limits of its liability as a result of its
70 obtaining insurance coverage for tortious acts in excess of the
71 ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a) above. An
72 insurance policy may not condition the payment of benefits, in
73 whole or in part, on the enactment of a claim bill.

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

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

78 (d) When determining liability limits for a claim, the
 79 limitations of liability in effect on the date a final judgment
 80 is entered shall apply to the claim.

81 (e) Beginning July 1, 2023, and every July 1 thereafter,
 82 the Department of Financial Services shall adjust the
 83 limitations of liability in this subsection to reflect changes
 84 in the Consumer Price Index for the Southeast or a successor
 85 index as calculated by the United States Department of Labor.

86 (f)~~(b)~~ A municipality has a duty to allow the municipal
 87 law enforcement agency to respond appropriately to protect
 88 persons and property during a riot or an unlawful assembly based
 89 on the availability of adequate equipment to its municipal law
 90 enforcement officers and relevant state and federal laws. If the
 91 governing body of a municipality or a person authorized by the
 92 governing body of the municipality breaches that duty, the
 93 municipality is civilly liable for any damages, including
 94 damages arising from personal injury, wrongful death, or
 95 property damages proximately caused by the municipality's breach
 96 of duty. The sovereign immunity recovery limits in paragraph (a)
 97 do not apply to an action under this paragraph.

98 (6) (a) An action may not be instituted on a claim against
 99 the state or one of its agencies or subdivisions unless the
 100 claimant presents the claim in writing to the appropriate

101 agency, and also, except as to any claim against a municipality,
 102 county, or the Florida Space Authority, presents such claim in
 103 writing to the Department of Financial Services, within 3 years
 104 after such claim accrues and the Department of Financial
 105 Services or the appropriate agency denies the claim in writing;
 106 except that, if:

107 1. Such claim is for contribution pursuant to s. 768.31,
 108 it must be so presented within 6 months after the judgment
 109 against the tortfeasor seeking contribution has become final by
 110 lapse of time for appeal or after appellate review or, if there
 111 is no such judgment, within 6 months after the tortfeasor
 112 seeking contribution has either discharged the common liability
 113 by payment or agreed, while the action is pending against her or
 114 him, to discharge the common liability; ~~or~~

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

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

122 (14) Every claim against the state or one of its agencies
 123 or subdivisions for damages for a negligent or wrongful act or
 124 omission pursuant to this section shall be forever barred unless
 125 the civil action is commenced by filing a complaint in the court

126 of appropriate jurisdiction within 4 years after such claim
 127 accrues; except that:

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

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

133 (c) An action arising from acts constituting a violation
 134 of s. 794.011 involving a victim who was younger than the age of
 135 16 at the time of the act may be commenced at any time pursuant
 136 to s. 95.11(9).

137 Section 2. For the purpose of incorporating the amendment
 138 made by this act to section 768.28, Florida Statutes, in a
 139 reference thereto, subsection (5) of section 45.061, Florida
 140 Statutes, is reenacted to read:

141 45.061 Offers of settlement.—

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

147 Section 3. For the purpose of incorporating the amendment
 148 made by this act to section 768.28, Florida Statutes, in a
 149 reference thereto, subsection (4) of section 110.504, Florida
 150 Statutes, is reenacted to read:

151 110.504 Volunteer benefits.—

152 (4) Volunteers shall be covered by state liability
 153 protection in accordance with the definition of a volunteer and
 154 the provisions of s. 768.28.

155 Section 4. For the purpose of incorporating the amendment
 156 made by this act to section 768.28, Florida Statutes, in a
 157 reference thereto, paragraph (a) of subsection (1) of section
 158 111.071, Florida Statutes, is reenacted to read:

159 111.071 Payment of judgments or settlements against
 160 certain public officers or employees.—

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

165 (a) Any final judgment, including damages, costs, and
 166 attorney's fees, arising from a complaint for damages or injury
 167 suffered as a result of any act or omission of action of any
 168 officer, employee, or agent in a civil or civil rights lawsuit
 169 described in s. 111.07. If the civil action arises under s.
 170 768.28 as a tort claim, the limitations and provisions of s.
 171 768.28 governing payment shall apply. If the action is a civil
 172 rights action arising under 42 U.S.C. s. 1983, or similar
 173 federal statutes, payments for the full amount of the judgment
 174 may be made unless the officer, employee, or agent has been
 175 determined in the final judgment to have caused the harm

176 intentionally.

177 Section 5. For the purpose of incorporating the amendment
 178 made by this act to section 768.28, Florida Statutes, in a
 179 reference thereto, paragraph (k) of subsection (15) of section
 180 163.01, Florida Statutes, is reenacted to read:

181 163.01 Florida Interlocal Cooperation Act of 1969.—

182 (15) Notwithstanding any other provision of this section
 183 or of any other law except s. 361.14, any public agency of this
 184 state which is an electric utility, or any separate legal entity
 185 created pursuant to the provisions of this section, the
 186 membership of which consists only of electric utilities, and
 187 which exercises or proposes to exercise the powers granted by
 188 part II of chapter 361, the Joint Power Act, may exercise any or
 189 all of the following powers:

190 (k) The limitations on waiver in the provisions of s.
 191 768.28 or any other law to the contrary notwithstanding, the
 192 Legislature, in accordance with s. 13, Art. X of the State
 193 Constitution, hereby declares that any such legal entity or any
 194 public agency of this state that participates in any electric
 195 project waives its sovereign immunity to:

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

- 200 a. Ownership, operation, or any other activity set forth

201 in sub-subparagraph (b)2.d. with relation to any electric
202 project; or

203 b. The supplying or purchasing of services, output,
204 capacity, energy, or any combination thereof.

205 Section 6. For the purpose of incorporating the amendment
206 made by this act to section 768.28, Florida Statutes, in a
207 reference thereto, section 190.043, Florida Statutes, is
208 reenacted to read:

209 190.043 Suits against the district.—Any suit or action
210 brought or maintained against the district for damages arising
211 out of tort, including, without limitation, any claim arising
212 upon account of an act causing an injury or loss of property,
213 personal injury, or death, shall be subject to the limitations
214 provided in s. 768.28.

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

219 213.015 Taxpayer rights.—There is created a Florida
220 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
221 and property of Florida taxpayers are adequately safeguarded and
222 protected during tax assessment, collection, and enforcement
223 processes administered under the revenue laws of this state. The
224 Taxpayer's Bill of Rights compiles, in one document, brief but
225 comprehensive statements which explain, in simple, nontechnical

226 terms, the rights and obligations of the Department of Revenue
 227 and taxpayers. Section 192.0105 provides additional rights
 228 afforded to payors of property taxes and assessments. The rights
 229 afforded taxpayers to ensure that their privacy and property are
 230 safeguarded and protected during tax assessment and collection
 231 are available only insofar as they are implemented in other
 232 parts of the Florida Statutes or rules of the Department of
 233 Revenue. The rights so guaranteed Florida taxpayers in the
 234 Florida Statutes and the departmental rules are:

235 (13) The right to an action at law within the limitations
 236 of s. 768.28, relating to sovereign immunity, to recover damages
 237 against the state or the Department of Revenue for injury caused
 238 by the wrongful or negligent act or omission of a department
 239 officer or employee (see s. 768.28).

240 Section 8. For the purpose of incorporating the amendment
 241 made by this act to section 768.28, Florida Statutes, in a
 242 reference thereto, section 252.51, Florida Statutes, is
 243 reenacted to read:

244 252.51 Liability.—Any person or organization, public or
 245 private, owning or controlling real estate or other premises who
 246 voluntarily and without compensation, other than payment or
 247 reimbursement of costs and expenses, grants a license or
 248 privilege or otherwise permits the designation by the local
 249 emergency management agency or use of the whole or any part of
 250 such real estate or premises for the purpose of sheltering

251 persons during an actual, impending, mock, or practice
 252 emergency, together with her or his successor in interest, if
 253 any, shall not be liable for the death of, or injury to, any
 254 person on or about such real estate or premises during the
 255 actual, impending, mock, or practice emergency, or for loss of,
 256 or damage to, the property of such person, solely by reason or
 257 as a result of such license, privilege, designation, or use,
 258 unless the gross negligence or the willful and wanton misconduct
 259 of such person owning or controlling such real estate or
 260 premises or her or his successor in interest is the proximate
 261 cause of such death, injury, loss, or damage occurring during
 262 such sheltering period. Any such person or organization who
 263 provides such shelter space for compensation shall be deemed to
 264 be an instrumentality of the state or its applicable agency or
 265 subdivision for the purposes of s. 768.28.

266 Section 9. For the purpose of incorporating the amendment
 267 made by this act to section 768.28, Florida Statutes, in a
 268 reference thereto, section 252.89, Florida Statutes, is
 269 reenacted to read:

270 252.89 Tort liability.—The commission and the committees
 271 shall be state agencies, and the members of the commission and
 272 committees shall be officers, employees, or agents of the state
 273 for the purposes of s. 768.28.

274 Section 10. For the purpose of incorporating the amendment
 275 made by this act to section 768.28, Florida Statutes, in a

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276 reference thereto, section 252.944, Florida Statutes, is
277 reenacted to read:

278 252.944 Tort liability.—The commission and the committees
279 are state agencies, and the members of the commission and
280 committees are officers, employees, or agents of the state for
281 the purpose of s. 768.28.

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

286 260.0125 Limitation on liability of private landowners
287 whose property is designated as part of the statewide system of
288 greenways and trails.—

289 (2) Any private landowner who consents to designation of
290 his or her land as part of the statewide system of greenways and
291 trails pursuant to s. 260.016(2)(d) without compensation shall
292 be considered a volunteer, as defined in s. 110.501, and shall
293 be covered by state liability protection pursuant to s. 768.28,
294 including s. 768.28(9).

295 Section 12. For the purpose of incorporating the amendment
296 made by this act to section 768.28, Florida Statutes, in a
297 reference thereto, section 284.31, Florida Statutes, is
298 reenacted to read:

299 284.31 Scope and types of coverages; separate accounts.—
300 The Insurance Risk Management Trust Fund must, unless

301 specifically excluded by the Department of Financial Services,
302 cover all departments of the State of Florida and their
303 employees, agents, and volunteers and must provide separate
304 accounts for workers' compensation, general liability, fleet
305 automotive liability, federal civil rights actions under 42
306 U.S.C. s. 1983 or similar federal statutes, state agency
307 firefighter cancer benefits payable under s. 112.1816(2), and
308 court-awarded attorney fees in other proceedings against the
309 state except for such awards in eminent domain or for inverse
310 condemnation or for awards by the Public Employees Relations
311 Commission. Unless specifically excluded by the Department of
312 Financial Services, the Insurance Risk Management Trust Fund
313 must provide fleet automotive liability coverage to motor
314 vehicles titled to the state, or to any department of the state,
315 when such motor vehicles are used by community transportation
316 coordinators performing, under contract to the appropriate
317 department of the state, services for the transportation
318 disadvantaged under part I of chapter 427. Such fleet automotive
319 liability coverage is primary and is subject to s. 768.28 and
320 parts II and III of chapter 284, and applicable rules adopted
321 thereunder, and the terms and conditions of the certificate of
322 coverage issued by the Department of Financial Services.

323 Section 13. For the purpose of incorporating the amendment
324 made by this act to section 768.28, Florida Statutes, in a
325 reference thereto, section 284.38, Florida Statutes, is

326 reenacted to read:

327 284.38 Waiver of sovereign immunity; effect.—The insurance
328 programs developed herein shall provide limits as established by
329 the provisions of s. 768.28 if a tort claim. The limits provided
330 in s. 768.28 shall not apply to a civil rights action arising
331 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a
332 pending or future claim or judgment arising under any of said
333 statutes may be made upon this act becoming a law, unless the
334 officer, employee, or agent has been determined in the final
335 judgment to have caused the harm intentionally; however, the
336 fund is authorized to pay all other court-ordered attorney's
337 fees as provided under s. 284.31.

338 Section 14. For the purpose of incorporating the amendment
339 made by this act to section 768.28, Florida Statutes, in a
340 reference thereto, paragraph (b) of subsection (1) of section
341 322.13, Florida Statutes, is reenacted to read:

342 322.13 Driver license examiners.—

343 (1)

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

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

351 337.19 Suits by and against department; limitation of
 352 actions; forum.—

353 (1) Suits at law and in equity may be brought and
 354 maintained by and against the department on any contract claim
 355 arising from breach of an express provision or an implied
 356 covenant of a written agreement or a written directive issued by
 357 the department pursuant to the written agreement. In any such
 358 suit, the department and the contractor shall have all of the
 359 same rights and obligations as a private person under a like
 360 contract except that no liability may be based on an oral
 361 modification of either the written contract or written
 362 directive. Nothing herein shall be construed to waive the
 363 sovereign immunity of the state and its political subdivisions
 364 from equitable claims and equitable remedies. Notwithstanding
 365 anything to the contrary contained in this section, no employee
 366 or agent of the department may be held personally liable to an
 367 extent greater than that pursuant to s. 768.28 provided that no
 368 suit sounding in tort shall be maintained against the
 369 department.

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

374 341.302 Rail program; duties and responsibilities of the
 375 department.—The department, in conjunction with other

376 governmental entities, including the rail enterprise and the
377 private sector, shall develop and implement a rail program of
378 statewide application designed to ensure the proper maintenance,
379 safety, revitalization, and expansion of the rail system to
380 assure its continued and increased availability to respond to
381 statewide mobility needs. Within the resources provided pursuant
382 to chapter 216, and as authorized under federal law, the
383 department shall:

384 (17) In conjunction with the acquisition, ownership,
385 construction, operation, maintenance, and management of a rail
386 corridor, have the authority to:

387 (a) Assume obligations pursuant to the following:

388 1.a. The department may assume the obligation by contract
389 to forever protect, defend, indemnify, and hold harmless the
390 freight rail operator, or its successors, from whom the
391 department has acquired a real property interest in the rail
392 corridor, and that freight rail operator's officers, agents, and
393 employees, from and against any liability, cost, and expense,
394 including, but not limited to, commuter rail passengers and rail
395 corridor invitees in the rail corridor, regardless of whether
396 the loss, damage, destruction, injury, or death giving rise to
397 any such liability, cost, or expense is caused in whole or in
398 part, and to whatever nature or degree, by the fault, failure,
399 negligence, misconduct, nonfeasance, or misfeasance of such
400 freight rail operator, its successors, or its officers, agents,

401 and employees, or any other person or persons whomsoever; or
 402 b. The department may assume the obligation by contract to
 403 forever protect, defend, indemnify, and hold harmless National
 404 Railroad Passenger Corporation, or its successors, and officers,
 405 agents, and employees of National Railroad Passenger
 406 Corporation, from and against any liability, cost, and expense,
 407 including, but not limited to, commuter rail passengers and rail
 408 corridor invitees in the rail corridor, regardless of whether
 409 the loss, damage, destruction, injury, or death giving rise to
 410 any such liability, cost, or expense is caused in whole or in
 411 part, and to whatever nature or degree, by the fault, failure,
 412 negligence, misconduct, nonfeasance, or misfeasance of National
 413 Railroad Passenger Corporation, its successors, or its officers,
 414 agents, and employees, or any other person or persons
 415 whomsoever.

416 2. The assumption of liability of the department by
 417 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
 418 1.b. may not in any instance exceed the following parameters of
 419 allocation of risk:

420 a. The department may be solely responsible for any loss,
 421 injury, or damage to commuter rail passengers, or rail corridor
 422 invitees, or trespassers, regardless of circumstances or cause,
 423 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
 424 6.

425 b.(I) In the event of a limited covered accident, the

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

437 (II) In the event of a limited covered accident, the
438 authority of the department to protect, defend, and indemnify
439 National Railroad Passenger Corporation for all liability, cost,
440 and expense, including punitive or exemplary damages, in excess
441 of the deductible or self-insurance retention fund established
442 under paragraph (b) and actually in force at the time of the
443 limited covered accident exists only if National Railroad
444 Passenger Corporation agrees, with respect to the limited
445 covered accident, to protect, defend, and indemnify the
446 department for the amount of the deductible or self-insurance
447 retention fund established under paragraph (b) and actually in
448 force at the time of the limited covered accident.

449 3. When only one train is involved in an incident, the
450 department may be solely responsible for any loss, injury, or

451 damage if the train is a department train or other train
452 pursuant to subparagraph 4., but only if:

453 a. When an incident occurs with only a freight train
454 involved, including incidents with trespassers or at grade
455 crossings, the freight rail operator is solely responsible for
456 any loss, injury, or damage, except for commuter rail passengers
457 and rail corridor invitees; or

458 b. When an incident occurs with only a National Railroad
459 Passenger Corporation train involved, including incidents with
460 trespassers or at grade crossings, National Railroad Passenger
461 Corporation is solely responsible for any loss, injury, or
462 damage, except for commuter rail passengers and rail corridor
463 invitees.

464 4. For the purposes of this subsection:

465 a. Any train involved in an incident that is neither the
466 department's train nor the freight rail operator's train,
467 hereinafter referred to in this subsection as an "other train,"
468 may be treated as a department train, solely for purposes of any
469 allocation of liability between the department and the freight
470 rail operator only, but only if the department and the freight
471 rail operator share responsibility equally as to third parties
472 outside the rail corridor who incur loss, injury, or damage as a
473 result of any incident involving both a department train and a
474 freight rail operator train, and the allocation as between the
475 department and the freight rail operator, regardless of whether

476 | the other train is treated as a department train, shall remain
477 | one-half each as to third parties outside the rail corridor who
478 | incur loss, injury, or damage as a result of the incident. The
479 | involvement of any other train shall not alter the sharing of
480 | equal responsibility as to third parties outside the rail
481 | corridor who incur loss, injury, or damage as a result of the
482 | incident; or

483 | b. Any train involved in an incident that is neither the
484 | department's train nor the National Railroad Passenger
485 | Corporation's train, hereinafter referred to in this subsection
486 | as an "other train," may be treated as a department train,
487 | solely for purposes of any allocation of liability between the
488 | department and National Railroad Passenger Corporation only, but
489 | only if the department and National Railroad Passenger
490 | Corporation share responsibility equally as to third parties
491 | outside the rail corridor who incur loss, injury, or damage as a
492 | result of any incident involving both a department train and a
493 | National Railroad Passenger Corporation train, and the
494 | allocation as between the department and National Railroad
495 | Passenger Corporation, regardless of whether the other train is
496 | treated as a department train, shall remain one-half each as to
497 | third parties outside the rail corridor who incur loss, injury,
498 | or damage as a result of the incident. The involvement of any
499 | other train shall not alter the sharing of equal responsibility
500 | as to third parties outside the rail corridor who incur loss,

501 injury, or damage as a result of the incident.

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

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

514 (II) If only a department train and a National Railroad
515 Passenger Corporation train, or only an other train as described
516 in sub-subparagraph 4.b. and a National Railroad Passenger
517 Corporation train, are involved in an incident, the department
518 may be responsible for its property and all of its people, all
519 commuter rail passengers, and rail corridor invitees, but only
520 if National Railroad Passenger Corporation is responsible for
521 its property and all of its people, all National Railroad
522 Passenger Corporation's rail passengers, and the department and
523 National Railroad Passenger Corporation each share one-half
524 responsibility as to trespassers or third parties outside the
525 rail corridor who incur loss, injury, or damage as a result of

526 | the incident.

527 | b.(I) If a department train, a freight rail operator
528 | train, and any other train are involved in an incident, the
529 | allocation of liability between the department and the freight
530 | rail operator, regardless of whether the other train is treated
531 | as a department train, shall remain one-half each as to third
532 | parties outside the rail corridor who incur loss, injury, or
533 | damage as a result of the incident; the involvement of any other
534 | train shall not alter the sharing of equal responsibility as to
535 | third parties outside the rail corridor who incur loss, injury,
536 | or damage as a result of the incident; and, if the owner,
537 | operator, or insurer of the other train makes any payment to
538 | injured third parties outside the rail corridor who incur loss,
539 | injury, or damage as a result of the incident, the allocation of
540 | credit between the department and the freight rail operator as
541 | to such payment shall not in any case reduce the freight rail
542 | operator's third-party-sharing allocation of one-half under this
543 | paragraph to less than one-third of the total third party
544 | liability; or

545 | (II) If a department train, a National Railroad Passenger
546 | Corporation train, and any other train are involved in an
547 | incident, the allocation of liability between the department and
548 | National Railroad Passenger Corporation, regardless of whether
549 | the other train is treated as a department train, shall remain
550 | one-half each as to third parties outside the rail corridor who

551 incur loss, injury, or damage as a result of the incident; the
552 involvement of any other train shall not alter the sharing of
553 equal responsibility as to third parties outside the rail
554 corridor who incur loss, injury, or damage as a result of the
555 incident; and, if the owner, operator, or insurer of the other
556 train makes any payment to injured third parties outside the
557 rail corridor who incur loss, injury, or damage as a result of
558 the incident, the allocation of credit between the department
559 and National Railroad Passenger Corporation as to such payment
560 shall not in any case reduce National Railroad Passenger
561 Corporation's third-party-sharing allocation of one-half under
562 this sub-subparagraph to less than one-third of the total third
563 party liability.

564 6. Any such contractual duty to protect, defend,
565 indemnify, and hold harmless such a freight rail operator or
566 National Railroad Passenger Corporation shall expressly include
567 a specific cap on the amount of the contractual duty, which
568 amount shall not exceed \$200 million without prior legislative
569 approval, and the department to purchase liability insurance and
570 establish a self-insurance retention fund in the amount of the
571 specific cap established under this subparagraph, provided that:

572 a. No such contractual duty shall in any case be effective
573 nor otherwise extend the department's liability in scope and
574 effect beyond the contractual liability insurance and self-
575 insurance retention fund required pursuant to this paragraph;

576 | and

577 | b.(I) The freight rail operator's compensation to the
578 | department for future use of the department's rail corridor
579 | shall include a monetary contribution to the cost of such
580 | liability coverage for the sole benefit of the freight rail
581 | operator.

582 | (II) National Railroad Passenger Corporation's
583 | compensation to the department for future use of the
584 | department's rail corridor shall include a monetary contribution
585 | to the cost of such liability coverage for the sole benefit of
586 | National Railroad Passenger Corporation.

587 | (b) Purchase liability insurance, which amount shall not
588 | exceed \$200 million, and establish a self-insurance retention
589 | fund for the purpose of paying the deductible limit established
590 | in the insurance policies it may obtain, including coverage for
591 | the department, any freight rail operator as described in
592 | paragraph (a), National Railroad Passenger Corporation, commuter
593 | rail service providers, governmental entities, or any ancillary
594 | development, which self-insurance retention fund or deductible
595 | shall not exceed \$10 million. The insureds shall pay a
596 | reasonable monetary contribution to the cost of such liability
597 | coverage for the sole benefit of the insured. Such insurance and
598 | self-insurance retention fund may provide coverage for all
599 | damages, including, but not limited to, compensatory, special,
600 | and exemplary, and be maintained to provide an adequate fund to

601 cover claims and liabilities for loss, injury, or damage arising
602 out of or connected with the ownership, operation, maintenance,
603 and management of a rail corridor.

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

606 (d) Without altering any of the rights granted to the
607 department under this section, agree to assume the obligations
608 to indemnify and insure, pursuant to s. 343.545, freight rail
609 service, intercity passenger rail service, and commuter rail
610 service on a department-owned rail corridor, whether ownership
611 is in fee or by easement, or on a rail corridor where the
612 department has the right to operate.

613
614 Neither the assumption by contract to protect, defend,
615 indemnify, and hold harmless; the purchase of insurance; nor the
616 establishment of a self-insurance retention fund shall be deemed
617 to be a waiver of any defense of sovereign immunity for torts
618 nor deemed to increase the limits of the department's or the
619 governmental entity's liability for torts as provided in s.
620 768.28. The requirements of s. 287.022(1) shall not apply to the
621 purchase of any insurance under this subsection. The provisions
622 of this subsection shall apply and inure fully as to any other
623 governmental entity providing commuter rail service and
624 constructing, operating, maintaining, or managing a rail
625 corridor on publicly owned right-of-way under contract by the

626 governmental entity with the department or a governmental entity
627 designated by the department. Notwithstanding any law to the
628 contrary, procurement for the construction, operation,
629 maintenance, and management of any rail corridor described in
630 this subsection, whether by the department, a governmental
631 entity under contract with the department, or a governmental
632 entity designated by the department, shall be pursuant to s.
633 287.057 and shall include, but not be limited to, criteria for
634 the consideration of qualifications, technical aspects of the
635 proposal, and price. Further, any such contract for design-build
636 shall be procured pursuant to the criteria in s. 337.11(7).

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

641 373.1395 Limitation on liability of water management
642 district with respect to areas made available to the public for
643 recreational purposes without charge.—

644 (6) This section does not relieve any water management
645 district of any liability that would otherwise exist for gross
646 negligence or a deliberate, willful, or malicious injury to a
647 person or property. This section does not create or increase the
648 liability of any water management district or person beyond that
649 which is authorized by s. 768.28.

650 Section 18. For the purpose of incorporating the amendment

651 made by this act to section 768.28, Florida Statutes, in a
 652 reference thereto, paragraph (a) of subsection (3) of section
 653 375.251, Florida Statutes, is reenacted to read:

654 375.251 Limitation on liability of persons making
 655 available to public certain areas for recreational purposes
 656 without charge.—

657 (3)(a) An owner of an area who enters into a written
 658 agreement concerning the area with a state agency for outdoor
 659 recreational purposes, where such agreement recognizes that the
 660 state agency is responsible for personal injury, loss, or damage
 661 resulting in whole or in part from the state agency's use of the
 662 area under the terms of the agreement subject to the limitations
 663 and conditions specified in s. 768.28, owes no duty of care to
 664 keep the area safe for entry or use by others, or to give
 665 warning to persons entering or going on the area of any
 666 hazardous conditions, structures, or activities thereon. An
 667 owner who enters into a written agreement concerning the area
 668 with a state agency for outdoor recreational purposes:

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

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

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

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

680 381.0056 School health services program.—

681 (9) Any health care entity that provides school health
682 services under contract with the department pursuant to a school
683 health services plan developed under this section, and as part
684 of a school nurse services public-private partnership, is deemed
685 to be a corporation acting primarily as an instrumentality of
686 the state solely for the purpose of limiting liability pursuant
687 to s. 768.28(5). The limitations on tort actions contained in s.
688 768.28(5) shall apply to any action against the entity with
689 respect to the provision of school health services, if the
690 entity is acting within the scope of and pursuant to guidelines
691 established in the contract or by rule of the department. The
692 contract must require the entity, or the partnership on behalf
693 of the entity, to obtain general liability insurance coverage,
694 with any additional endorsement necessary to insure the entity
695 for liability assumed by its contract with the department. The
696 Legislature intends that insurance be purchased by entities, or
697 by partnerships on behalf of the entity, to cover all liability
698 claims, and under no circumstances shall the state or the
699 department be responsible for payment of any claims or defense
700 costs for claims brought against the entity or its subcontractor

701 for services performed under the contract with the department.
 702 This subsection does not preclude consideration by the
 703 Legislature for payment by the state of any claims bill
 704 involving an entity contracting with the department pursuant to
 705 this section.

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

710 393.075 General liability coverage.—

711 (3) This section shall not be construed as designating or
 712 not designating that a person who owns or operates a foster care
 713 facility or group home facility as described in this section or
 714 any other person is an employee or agent of the state. Nothing
 715 in this section amends, expands, or supersedes the provisions of
 716 s. 768.28.

717 Section 21. For the purpose of incorporating the amendment
 718 made by this act to section 768.28, Florida Statutes, in a
 719 reference thereto, paragraph (g) of subsection (10) of section
 720 395.1055, Florida Statutes, is reenacted to read:

721 395.1055 Rules and enforcement.—

722 (10) The agency shall establish a pediatric cardiac
 723 technical advisory panel, pursuant to s. 20.052, to develop
 724 procedures and standards for measuring outcomes of pediatric
 725 cardiac catheterization programs and pediatric cardiovascular

726 surgery programs.

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

730 Section 22. For the purpose of incorporating the amendment
731 made by this act to section 768.28, Florida Statutes, in a
732 reference thereto, paragraph (c) of subsection (17) of section
733 403.706, Florida Statutes, is reenacted to read:

734 403.706 Local government solid waste responsibilities.—

735 (17) To effect the purposes of this part, counties and
736 municipalities are authorized, in addition to other powers
737 granted pursuant to this part:

738 (c) To waive sovereign immunity and immunity from suit in
739 federal court by vote of the governing body of the county or
740 municipality to the extent necessary to carry out the authority
741 granted in paragraphs (a) and (b), notwithstanding the
742 limitations prescribed in s. 768.28.

743 Section 23. For the purpose of incorporating the amendment
744 made by this act to section 768.28, Florida Statutes, in a
745 reference thereto, subsection (1), paragraph (a) of subsection
746 (2), and paragraph (a) of subsection (3) of section 409.993,
747 Florida Statutes, are reenacted to read:

748 409.993 Lead agencies and subcontractor liability.—

749 (1) FINDINGS.—

750 (a) The Legislature finds that the state has traditionally

751 provided foster care services to children who are the
752 responsibility of the state. As such, foster children have not
753 had the right to recover for injuries beyond the limitations
754 specified in s. 768.28. The Legislature has determined that
755 foster care and related services should be outsourced pursuant
756 to this section and that the provision of such services is of
757 paramount importance to the state. The purpose of such
758 outsourcing is to increase the level of safety, security, and
759 stability of children who are or become the responsibility of
760 the state. One of the components necessary to secure a safe and
761 stable environment for such children is the requirement that
762 private providers maintain liability insurance. As such,
763 insurance needs to be available and remain available to
764 nongovernmental foster care and related services providers
765 without the resources of such providers being significantly
766 reduced by the cost of maintaining such insurance.

767 (b) The Legislature further finds that, by requiring the
768 following minimum levels of insurance, children in outsourced
769 foster care and related services will gain increased protection
770 and rights of recovery in the event of injury than currently
771 provided in s. 768.28.

772 (2) LEAD AGENCY LIABILITY.—

773 (a) Other than an entity to which s. 768.28 applies, an
774 eligible community-based care lead agency, or its employees or
775 officers, except as otherwise provided in paragraph (b), shall,

776 as a part of its contract, obtain a minimum of \$1 million per
777 occurrence with a policy period aggregate limit of \$3 million in
778 general liability insurance coverage. The lead agency must also
779 require that staff who transport client children and families in
780 their personal automobiles in order to carry out their job
781 responsibilities obtain minimum bodily injury liability
782 insurance in the amount of \$100,000 per person per any one
783 automobile accident, and subject to such limits for each person,
784 \$300,000 for all damages resulting from any one automobile
785 accident, on their personal automobiles. In lieu of personal
786 motor vehicle insurance, the lead agency's casualty, liability,
787 or motor vehicle insurance carrier may provide nonowned
788 automobile liability coverage. This insurance provides liability
789 insurance for an automobile that the lead agency uses in
790 connection with the lead agency's business but does not own,
791 lease, rent, or borrow. This coverage includes an automobile
792 owned by an employee of the lead agency or a member of the
793 employee's household but only while the automobile is used in
794 connection with the lead agency's business. The nonowned
795 automobile coverage for the lead agency applies as excess
796 coverage over any other collectible insurance. The personal
797 automobile policy for the employee of the lead agency shall be
798 primary insurance, and the nonowned automobile coverage of the
799 lead agency acts as excess insurance to the primary insurance.
800 The lead agency shall provide a minimum limit of \$1 million in

801 nonowned automobile coverage. In a tort action brought against
802 such a lead agency or employee, net economic damages shall be
803 limited to \$2 million per liability claim and \$200,000 per
804 automobile claim, including, but not limited to, past and future
805 medical expenses, wage loss, and loss of earning capacity,
806 offset by any collateral source payment paid or payable. In any
807 tort action brought against a lead agency, noneconomic damages
808 shall be limited to \$400,000 per claim. A claims bill may be
809 brought on behalf of a claimant pursuant to s. 768.28 for any
810 amount exceeding the limits specified in this paragraph. Any
811 offset of collateral source payments made as of the date of the
812 settlement or judgment shall be in accordance with s. 768.76.
813 The lead agency is not liable in tort for the acts or omissions
814 of its subcontractors or the officers, agents, or employees of
815 its subcontractors.

816 (3) SUBCONTRACTOR LIABILITY.—

817 (a) A subcontractor of an eligible community-based care
818 lead agency that is a direct provider of foster care and related
819 services to children and families, and its employees or
820 officers, except as otherwise provided in paragraph (b), must,
821 as a part of its contract, obtain a minimum of \$1 million per
822 occurrence with a policy period aggregate limit of \$3 million in
823 general liability insurance coverage. The subcontractor of a
824 lead agency must also require that staff who transport client
825 children and families in their personal automobiles in order to

826 | carry out their job responsibilities obtain minimum bodily
827 | injury liability insurance in the amount of \$100,000 per person
828 | in any one automobile accident, and subject to such limits for
829 | each person, \$300,000 for all damages resulting from any one
830 | automobile accident, on their personal automobiles. In lieu of
831 | personal motor vehicle insurance, the subcontractor's casualty,
832 | liability, or motor vehicle insurance carrier may provide
833 | nonowned automobile liability coverage. This insurance provides
834 | liability insurance for automobiles that the subcontractor uses
835 | in connection with the subcontractor's business but does not
836 | own, lease, rent, or borrow. This coverage includes automobiles
837 | owned by the employees of the subcontractor or a member of the
838 | employee's household but only while the automobiles are used in
839 | connection with the subcontractor's business. The nonowned
840 | automobile coverage for the subcontractor applies as excess
841 | coverage over any other collectible insurance. The personal
842 | automobile policy for the employee of the subcontractor shall be
843 | primary insurance, and the nonowned automobile coverage of the
844 | subcontractor acts as excess insurance to the primary insurance.
845 | The subcontractor shall provide a minimum limit of \$1 million in
846 | nonowned automobile coverage. In a tort action brought against
847 | such subcontractor or employee, net economic damages shall be
848 | limited to \$2 million per liability claim and \$200,000 per
849 | automobile claim, including, but not limited to, past and future
850 | medical expenses, wage loss, and loss of earning capacity,

851 offset by any collateral source payment paid or payable. In a
852 tort action brought against such subcontractor, noneconomic
853 damages shall be limited to \$400,000 per claim. A claims bill
854 may be brought on behalf of a claimant pursuant to s. 768.28 for
855 any amount exceeding the limits specified in this paragraph. Any
856 offset of collateral source payments made as of the date of the
857 settlement or judgment shall be in accordance with s. 768.76.

858 Section 24. For the purpose of incorporating the amendment
859 made by this act to section 768.28, Florida Statutes, in a
860 reference thereto, subsection (3) of section 455.221, Florida
861 Statutes, is reenacted to read:

862 455.221 Legal and investigative services.—

863 (3) Any person retained by the department under contract
864 to review materials, make site visits, or provide expert
865 testimony regarding any complaint or application filed with the
866 department relating to a profession under the jurisdiction of
867 the department shall be considered an agent of the department in
868 determining the state insurance coverage and sovereign immunity
869 protection applicability of ss. 284.31 and 768.28.

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

874 455.32 Management Privatization Act.—

875 (5) Any such corporation may hire staff as necessary to

876 carry out its functions. Such staff are not public employees for
877 the purposes of chapter 110 or chapter 112, except that the
878 board of directors and the employees of the corporation are
879 subject to the provisions of s. 112.061 and part III of chapter
880 112. The provisions of s. 768.28 apply to each such corporation,
881 which is deemed to be a corporation primarily acting as an
882 instrumentality of the state but which is not an agency within
883 the meaning of s. 20.03(11).

884 Section 26. For the purpose of incorporating the amendment
885 made by this act to section 768.28, Florida Statutes, in a
886 reference thereto, subsection (3) of section 456.009, Florida
887 Statutes, is reenacted to read:

888 456.009 Legal and investigative services.—

889 (3) Any person retained by the department under contract
890 to review materials, make site visits, or provide expert
891 testimony regarding any complaint or application filed with the
892 department relating to a profession under the jurisdiction of
893 the department shall be considered an agent of the department in
894 determining the state insurance coverage and sovereign immunity
895 protection applicability of ss. 284.31 and 768.28.

896 Section 27. For the purpose of incorporating the amendment
897 made by this act to section 768.28, Florida Statutes, in a
898 reference thereto, paragraph (a) of subsection (15) of section
899 456.076, Florida Statutes, is reenacted to read:

900 456.076 Impaired practitioner programs.—

901 (15) (a) A consultant retained pursuant to this section and
902 a consultant's directors, officers, employees, or agents shall
903 be considered agents of the department for purposes of s. 768.28
904 while acting within the scope of the consultant's duties under
905 the contract with the department.

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

910 471.038 Florida Engineers Management Corporation.—

911 (3) The Florida Engineers Management Corporation is
912 created to provide administrative, investigative, and
913 prosecutorial services to the board in accordance with the
914 provisions of chapter 455 and this chapter. The management
915 corporation may hire staff as necessary to carry out its
916 functions. Such staff are not public employees for the purposes
917 of chapter 110 or chapter 112, except that the board of
918 directors and the staff are subject to the provisions of s.
919 112.061. The provisions of s. 768.28 apply to the management
920 corporation, which is deemed to be a corporation primarily
921 acting as an instrumentality of the state, but which is not an
922 agency within the meaning of s. 20.03(11). The management
923 corporation shall:

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

926 (b) Provide administrative, investigative, and
927 prosecutorial services to the board in accordance with the
928 provisions of chapter 455, this chapter, and the contract
929 required by this section.

930 (c) Receive, hold, and administer property and make only
931 prudent expenditures directly related to the responsibilities of
932 the board, and in accordance with the contract required by this
933 section.

934 (d) Be approved by the board, and the department, to
935 operate for the benefit of the board and in the best interest of
936 the state.

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

939 (f) Have a seven-member board of directors, five of whom
940 are to be appointed by the board and must be registrants
941 regulated by the board and two of whom are to be appointed by
942 the secretary and must be laypersons not regulated by the board.
943 All appointments shall be for 4-year terms. No member shall
944 serve more than two consecutive terms. Failure to attend three
945 consecutive meetings shall be deemed a resignation from the
946 board, and the vacancy shall be filled by a new appointment.

947 (g) Select its officers in accordance with its bylaws. The
948 members of the board of directors who were appointed by the
949 board may be removed by the board.

950 (h) Select the president of the management corporation,

951 | who shall also serve as executive director to the board, subject
 952 | to approval of the board.

953 | (i) Use a portion of the interest derived from the
 954 | management corporation account to offset the costs associated
 955 | with the use of credit cards for payment of fees by applicants
 956 | or licensees.

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

960 | 1. Submission by the management corporation of an annual
 961 | budget that complies with board rules for approval by the board
 962 | and the department.

963 | 2. Annual certification by the board and the department
 964 | that the management corporation is complying with the terms of
 965 | the contract in a manner consistent with the goals and purposes
 966 | of the board and in the best interest of the state. This
 967 | certification must be reported in the board's minutes. The
 968 | contract must also provide for methods and mechanisms to resolve
 969 | any situation in which the certification process determines
 970 | noncompliance.

971 | 3. Funding of the management corporation through
 972 | appropriations allocated to the regulation of professional
 973 | engineers from the Professional Regulation Trust Fund.

974 | 4. The reversion to the board, or the state if the board
 975 | ceases to exist, of moneys, records, data, and property held in

976 trust by the management corporation for the benefit of the
977 board, if the management corporation is no longer approved to
978 operate for the board or the board ceases to exist. All records
979 and data in a computerized database shall be returned to the
980 department in a form that is compatible with the computerized
981 database of the department.

982 5. The securing and maintaining by the management
983 corporation, during the term of the contract and for all acts
984 performed during the term of the contract, of all liability
985 insurance coverages in an amount to be approved by the board to
986 defend, indemnify, and hold harmless the management corporation
987 and its officers and employees, the department and its
988 employees, and the state against all claims arising from state
989 and federal laws. Such insurance coverage must be with insurers
990 qualified and doing business in the state. The management
991 corporation must provide proof of insurance to the department.
992 The department and its employees and the state are exempt from
993 and are not liable for any sum of money which represents a
994 deductible, which sums shall be the sole responsibility of the
995 management corporation. Violation of this subparagraph shall be
996 grounds for terminating the contract.

997 6. Payment by the management corporation, out of its
998 allocated budget, to the department of all costs of
999 representation by the board counsel, including salary and
1000 benefits, travel, and any other compensation traditionally paid

1001 by the department to other board counsel.

1002 7. Payment by the management corporation, out of its
 1003 allocated budget, to the department of all costs incurred by the
 1004 management corporation or the board for the Division of
 1005 Administrative Hearings of the Department of Management Services
 1006 and any other cost for utilization of these state services.

1007 8. Payment by the management corporation, out of its
 1008 allocated budget, to the department of reasonable costs
 1009 associated with the contract monitor.

1010 (k) Provide for an annual financial audit of its financial
 1011 accounts and records by an independent certified public
 1012 accountant. The annual audit report shall include a management
 1013 letter in accordance with s. 11.45 and a detailed supplemental
 1014 schedule of expenditures for each expenditure category. The
 1015 annual audit report must be submitted to the board, the
 1016 department, and the Auditor General for review.

1017 (l) Provide for persons not employed by the corporation
 1018 who are charged with the responsibility of receiving and
 1019 depositing fee and fine revenues to have a faithful performance
 1020 bond in such an amount and according to such terms as shall be
 1021 determined in the contract.

1022 (m) Submit to the secretary, the board, and the
 1023 Legislature, on or before October 1 of each year, a report on
 1024 the status of the corporation which includes, but is not limited
 1025 to, information concerning the programs and funds that have been

1026 transferred to the corporation. The report must include: the
1027 number of license applications received; the number approved and
1028 denied and the number of licenses issued; the number of
1029 examinations administered and the number of applicants who
1030 passed or failed the examination; the number of complaints
1031 received; the number determined to be legally sufficient; the
1032 number dismissed; the number determined to have probable cause;
1033 the number of administrative complaints issued and the status of
1034 the complaints; and the number and nature of disciplinary
1035 actions taken by the board.

1036 (n) Develop and submit to the department, performance
1037 standards and measurable outcomes for the board to adopt by rule
1038 in order to facilitate efficient and cost-effective regulation.

1039 Section 29. For the purpose of incorporating the amendment
1040 made by this act to section 768.28, Florida Statutes, in a
1041 reference thereto, paragraph (b) of subsection (11) of section
1042 472.006, Florida Statutes, is reenacted to read:

1043 472.006 Department; powers and duties.—The department
1044 shall:

1045 (11) Provide legal counsel for the board by contracting
1046 with the Department of Legal Affairs, by retaining private
1047 counsel pursuant to s. 287.059, or by providing department staff
1048 counsel. The board shall periodically review and evaluate the
1049 services provided by its board counsel. Fees and costs of such
1050 counsel shall be paid from the General Inspection Trust Fund,

1051 subject to ss. 215.37 and 472.011. All contracts for independent
 1052 legal counsel must provide for periodic review and evaluation by
 1053 the board and the department of services provided.

1054 (b) Any person retained by the department under contract
 1055 to review materials, make site visits, or provide expert
 1056 testimony regarding any complaint or application filed with the
 1057 department relating to the practice of surveying and mapping
 1058 shall be considered an agent of the department in determining
 1059 the state insurance coverage and sovereign immunity protection
 1060 applicability of ss. 284.31 and 768.28.

1061 Section 30. For the purpose of incorporating the amendment
 1062 made by this act to section 768.28, Florida Statutes, in a
 1063 reference thereto, subsection (7) of section 497.167, Florida
 1064 Statutes, is reenacted to read:

1065 497.167 Administrative matters.—

1066 (7) Any person retained by the department under contract
 1067 to review materials, make site visits, or provide expert
 1068 testimony regarding any complaint or application filed with the
 1069 department, relating to regulation under this chapter, shall be
 1070 considered an agent of the department in determining the state
 1071 insurance coverage and sovereign immunity protection
 1072 applicability of ss. 284.31 and 768.28.

1073 Section 31. For the purpose of incorporating the amendment
 1074 made by this act to section 768.28, Florida Statutes, in a
 1075 reference thereto, subsection (2) of section 513.118, Florida

1076 Statutes, is reenacted to read:

1077 513.118 Conduct on premises; refusal of service.—

1078 (2) The operator of a recreational vehicle park may
 1079 request that a transient guest or visitor who violates
 1080 subsection (1) leave the premises immediately. A person who
 1081 refuses to leave the premises commits the offense of trespass as
 1082 provided in s. 810.08, and the operator may call a law
 1083 enforcement officer to have the person and his or her property
 1084 removed under the supervision of the officer. A law enforcement
 1085 officer is not liable for any claim involving the removal of the
 1086 person or property from the recreational vehicle park under this
 1087 section, except as provided in s. 768.28. If conditions do not
 1088 allow for immediate removal of the person's property, he or she
 1089 may arrange a reasonable time, not to exceed 48 hours, with the
 1090 operator to come remove the property, accompanied by a law
 1091 enforcement officer.

1092 Section 32. For the purpose of incorporating the amendment
 1093 made by this act to section 768.28, Florida Statutes, in a
 1094 reference thereto, subsection (1) of section 548.046, Florida
 1095 Statutes, is reenacted to read:

1096 548.046 Physician's attendance at match; examinations;
 1097 cancellation of match.—

1098 (1) The commission, or the commission representative,
 1099 shall assign to each match at least one physician who shall
 1100 observe the physical condition of the participants and advise

1101 the commissioner or commission representative in charge and the
 1102 referee of the participants' conditions before, during, and
 1103 after the match. The commission shall establish a schedule of
 1104 fees for the physician's services. The physician's fee shall be
 1105 paid by the promoter of the match attended by the physician. The
 1106 physician shall be considered an agent of the commission in
 1107 determining the state insurance coverage and sovereign immunity
 1108 protection applicability of ss. 284.31 and 768.28.

1109 Section 33. For the purpose of incorporating the amendment
 1110 made by this act to section 768.28, Florida Statutes, in a
 1111 reference thereto, subsection (8) of section 556.106, Florida
 1112 Statutes, is reenacted to read:

1113 556.106 Liability of the member operator, excavator, and
 1114 system.—

1115 (8) Any liability of the state, its agencies, or its
 1116 subdivisions which arises out of this chapter is subject to the
 1117 provisions of s. 768.28.

1118 Section 34. For the purpose of incorporating the amendment
 1119 made by this act to section 768.28, Florida Statutes, in a
 1120 reference thereto, paragraph (e) of subsection (4) of section
 1121 589.19, Florida Statutes, is reenacted to read:

1122 589.19 Creation of certain state forests; naming of
 1123 certain state forests; Operation Outdoor Freedom Program.—

1124 (4)

1125 (e)1. A private landowner who provides land for

1126 designation and use as an Operation Outdoor Freedom Program
 1127 hunting site shall have limited liability pursuant to s.
 1128 375.251.

1129 2. A private landowner who consents to the designation and
 1130 use of land as part of the Operation Outdoor Freedom Program
 1131 without compensation shall be considered a volunteer, as defined
 1132 in s. 110.501, and shall be covered by state liability
 1133 protection pursuant to s. 768.28, including s. 768.28(9).

1134 3. This subsection does not:

1135 a. Relieve any person of liability that would otherwise
 1136 exist for deliberate, willful, or malicious injury to persons or
 1137 property.

1138 b. Create or increase the liability of any person.

1139 Section 35. For the purpose of incorporating the amendment
 1140 made by this act to section 768.28, Florida Statutes, in a
 1141 reference thereto, paragraph (c) of subsection (2) of section
 1142 723.0611, Florida Statutes, is reenacted to read:

1143 723.0611 Florida Mobile Home Relocation Corporation.—

1144 (2)

1145 (c) The corporation shall, for purposes of s. 768.28, be
 1146 considered an agency of the state. Agents or employees of the
 1147 corporation, members of the board of directors of the
 1148 corporation, or representatives of the Division of Florida
 1149 Condominiums, Timeshares, and Mobile Homes shall be considered
 1150 officers, employees, or agents of the state, and actions against

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1151 | them and the corporation shall be governed by s. 768.28.

1152 | Section 36. For the purpose of incorporating the amendment
1153 | made by this act to section 768.28, Florida Statutes, in a
1154 | reference thereto, subsection (5) of section 760.11, Florida
1155 | Statutes, is reenacted to read:

1156 | 760.11 Administrative and civil remedies; construction.—

1157 | (5) In any civil action brought under this section, the
1158 | court may issue an order prohibiting the discriminatory practice
1159 | and providing affirmative relief from the effects of the
1160 | practice, including back pay. The court may also award
1161 | compensatory damages, including, but not limited to, damages for
1162 | mental anguish, loss of dignity, and any other intangible
1163 | injuries, and punitive damages. The provisions of ss. 768.72 and
1164 | 768.73 do not apply to this section. The judgment for the total
1165 | amount of punitive damages awarded under this section to an
1166 | aggrieved person shall not exceed \$100,000. In any action or
1167 | proceeding under this subsection, the court, in its discretion,
1168 | may allow the prevailing party a reasonable attorney's fee as
1169 | part of the costs. It is the intent of the Legislature that this
1170 | provision for attorney's fees be interpreted in a manner
1171 | consistent with federal case law involving a Title VII action.
1172 | The right to trial by jury is preserved in any such private
1173 | right of action in which the aggrieved person is seeking
1174 | compensatory or punitive damages, and any party may demand a
1175 | trial by jury. The commission's determination of reasonable

1176 cause is not admissible into evidence in any civil proceeding,
1177 including any hearing or trial, except to establish for the
1178 court the right to maintain the private right of action. A civil
1179 action brought under this section shall be commenced no later
1180 than 1 year after the date of determination of reasonable cause
1181 by the commission. The commencement of such action shall divest
1182 the commission of jurisdiction of the complaint, except that the
1183 commission may intervene in the civil action as a matter of
1184 right. Notwithstanding the above, the state and its agencies and
1185 subdivisions shall not be liable for punitive damages. The total
1186 amount of recovery against the state and its agencies and
1187 subdivisions shall not exceed the limitation as set forth in s.
1188 768.28(5).

1189 Section 37. For the purpose of incorporating the amendment
1190 made by this act to section 768.28, Florida Statutes, in a
1191 reference thereto, subsection (5) of section 766.1115, Florida
1192 Statutes, is reenacted to read:

1193 766.1115 Health care providers; creation of agency
1194 relationship with governmental contractors.—

1195 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
1196 contractor must provide written notice to each patient, or the
1197 patient's legal representative, receipt of which must be
1198 acknowledged in writing, that the provider is an agent of the
1199 governmental contractor and that the exclusive remedy for injury
1200 or damage suffered as the result of any act or omission of the

1201 provider or of any employee or agent thereof acting within the
 1202 scope of duties pursuant to the contract is by commencement of
 1203 an action pursuant to the provisions of s. 768.28. With respect
 1204 to any federally funded community health center, the notice
 1205 requirements may be met by posting in a place conspicuous to all
 1206 persons a notice that the federally funded community health
 1207 center is an agent of the governmental contractor and that the
 1208 exclusive remedy for injury or damage suffered as the result of
 1209 any act or omission of the provider or of any employee or agent
 1210 thereof acting within the scope of duties pursuant to the
 1211 contract is by commencement of an action pursuant to the
 1212 provisions of s. 768.28.

1213 Section 38. For the purpose of incorporating the amendment
 1214 made by this act to section 768.28, Florida Statutes, in a
 1215 reference thereto, subsection (2) of section 766.112, Florida
 1216 Statutes, is reenacted to read:

1217 766.112 Comparative fault.—

1218 (2) In an action for damages for personal injury or
 1219 wrongful death arising out of medical negligence, whether in
 1220 contract or tort, when an apportionment of damages pursuant to
 1221 s. 768.81 is attributed to a board of trustees of a state
 1222 university, the court shall enter judgment against the board of
 1223 trustees on the basis of the board's percentage of fault and not
 1224 on the basis of the doctrine of joint and several liability. The
 1225 sole remedy available to a claimant to collect a judgment or

1226 settlement against a board of trustees, subject to the
1227 provisions of this subsection, shall be pursuant to s. 768.28.

1228 Section 39. For the purpose of incorporating the amendment
1229 made by this act to section 768.28, Florida Statutes, in a
1230 reference thereto, subsection (3) of section 768.1355, Florida
1231 Statutes, is reenacted to read:

1232 768.1355 Florida Volunteer Protection Act.—

1233 (3) Members of elected or appointed boards, councils, and
1234 commissions of the state, counties, municipalities, authorities,
1235 and special districts shall incur no civil liability and shall
1236 have immunity from suit as provided in s. 768.28 for acts or
1237 omissions by members relating to members' conduct of their
1238 official duties. It is the intent of the Legislature to
1239 encourage our best and brightest people to serve on elected and
1240 appointed boards, councils, and commissions.

1241 Section 40. For the purpose of incorporating the amendment
1242 made by this act to section 768.28, Florida Statutes, in a
1243 reference thereto, subsection (4) of section 768.295, Florida
1244 Statutes, is reenacted to read:

1245 768.295 Strategic Lawsuits Against Public Participation
1246 (SLAPP) prohibited.—

1247 (4) A person or entity sued by a governmental entity or
1248 another person in violation of this section has a right to an
1249 expeditious resolution of a claim that the suit is in violation
1250 of this section. A person or entity may move the court for an

1251 order dismissing the action or granting final judgment in favor
1252 of that person or entity. The person or entity may file a motion
1253 for summary judgment, together with supplemental affidavits,
1254 seeking a determination that the claimant's or governmental
1255 entity's lawsuit has been brought in violation of this section.
1256 The claimant or governmental entity shall thereafter file a
1257 response and any supplemental affidavits. As soon as
1258 practicable, the court shall set a hearing on the motion, which
1259 shall be held at the earliest possible time after the filing of
1260 the claimant's or governmental entity's response. The court may
1261 award, subject to the limitations in s. 768.28, the party sued
1262 by a governmental entity actual damages arising from a
1263 governmental entity's violation of this section. The court shall
1264 award the prevailing party reasonable attorney fees and costs
1265 incurred in connection with a claim that an action was filed in
1266 violation of this section.

1267 Section 41. For the purpose of incorporating the amendment
1268 made by this act to section 768.28, Florida Statutes, in a
1269 reference thereto, subsection (2) of section 944.713, Florida
1270 Statutes, is reenacted to read:

1271 944.713 Insurance against liability.—

1272 (2) The contract shall provide for indemnification of the
1273 state by the private vendor for any liabilities incurred up to
1274 the limits provided under s. 768.28(5). The contract shall
1275 provide that the private vendor, or the insurer of the private

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1276 vendor, is liable to pay any claim or judgment for any one
1277 person which does not exceed the sum of \$100,000 or any claim or
1278 judgment, or portions thereof, which, when totaled with all
1279 other claims or judgments arising out of the same incident or
1280 occurrence, does not exceed the sum of \$200,000. In addition,
1281 the contractor must agree to defend, hold harmless, and
1282 indemnify the department against any and all actions, claims,
1283 damages and losses, including costs and attorney's fees.

1284 Section 42. For the purpose of incorporating the amendment
1285 made by this act to section 768.28, Florida Statutes, in a
1286 reference thereto, section 946.5026, Florida Statutes, is
1287 reenacted to read:

1288 946.5026 Sovereign immunity in tort actions.—The
1289 provisions of s. 768.28 shall be applicable to the corporation
1290 established under this part, which is deemed to be a corporation
1291 primarily acting as an instrumentality of the state.

1292 Section 43. For the purpose of incorporating the amendment
1293 made by this act to section 768.28, Florida Statutes, in a
1294 reference thereto, subsection (3) of section 946.514, Florida
1295 Statutes, is reenacted to read:

1296 946.514 Civil rights of inmates; inmates not state
1297 employees; liability of corporation for inmate injuries.—

1298 (3) The corporation is liable for inmate injury to the
1299 extent specified in s. 768.28; however, the members of the board
1300 of directors are not individually liable to any inmate for any

1301 injury sustained in any correctional work program operated by
1302 the corporation.

1303 Section 44. For the purpose of incorporating the amendment
1304 made by this act to section 768.28, Florida Statutes, in a
1305 reference thereto, subsections (5), (6), and (7) of section
1306 961.06, Florida Statutes, are reenacted to read:

1307 961.06 Compensation for wrongful incarceration.—

1308 (5) Before the department approves the application for
1309 compensation, the wrongfully incarcerated person must sign a
1310 release and waiver on behalf of the wrongfully incarcerated
1311 person and his or her heirs, successors, and assigns, forever
1312 releasing the state or any agency, instrumentality, or any
1313 political subdivision thereof, or any other entity subject to s.
1314 768.28, from all present or future claims that the wrongfully
1315 incarcerated person or his or her heirs, successors, or assigns
1316 may have against such entities arising out of the facts in
1317 connection with the wrongful conviction for which compensation
1318 is being sought under the act.

1319 (6) (a) A wrongfully incarcerated person may not submit an
1320 application for compensation under this act if the person has a
1321 lawsuit pending against the state or any agency,
1322 instrumentality, or any political subdivision thereof, or any
1323 other entity subject to the provisions of s. 768.28, in state or
1324 federal court requesting compensation arising out of the facts
1325 in connection with the claimant's conviction and incarceration.

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1326 (b) A wrongfully incarcerated person may not submit an
1327 application for compensation under this act if the person is the
1328 subject of a claim bill pending for claims arising out of the
1329 facts in connection with the claimant's conviction and
1330 incarceration.

1331 (c) Once an application is filed under this act, a
1332 wrongfully incarcerated person may not pursue recovery under a
1333 claim bill until the final disposition of the application.

1334 (d) Any amount awarded under this act is intended to
1335 provide the sole compensation for any and all present and future
1336 claims arising out of the facts in connection with the
1337 claimant's conviction and incarceration. Upon notification by
1338 the department that an application meets the requirements of
1339 this act, a wrongfully incarcerated person may not recover under
1340 a claim bill.

1341 (e) Any compensation awarded under a claim bill shall be
1342 the sole redress for claims arising out of the facts in
1343 connection with the claimant's conviction and incarceration and,
1344 upon any award of compensation to a wrongfully incarcerated
1345 person under a claim bill, the person may not receive
1346 compensation under this act.

1347 (7) Any payment made under this act does not constitute a
1348 waiver of any defense of sovereign immunity or an increase in
1349 the limits of liability on behalf of the state or any person
1350 subject to the provisions of s. 768.28 or other law.

1351 Section 45. For the purpose of incorporating the amendment
 1352 made by this act to section 768.28, Florida Statutes, in a
 1353 reference thereto, paragraph (h) of subsection (12) of section
 1354 1002.33, Florida Statutes, is reenacted to read:

1355 1002.33 Charter schools.—

1356 (12) EMPLOYEES OF CHARTER SCHOOLS.—

1357 (h) For the purposes of tort liability, the charter
 1358 school, including its governing body and employees, shall be
 1359 governed by s. 768.28. This paragraph does not include any for-
 1360 profit entity contracted by the charter school or its governing
 1361 body.

1362 Section 46. For the purpose of incorporating the amendment
 1363 made by this act to section 768.28, Florida Statutes, in a
 1364 reference thereto, paragraph (b) of subsection (6) of section
 1365 1002.333, Florida Statutes, is reenacted to read:

1366 1002.333 Persistently low-performing schools.—

1367 (6) STATUTORY AUTHORITY.—

1368 (b) For the purposes of tort liability, the hope operator,
 1369 the school of hope, and its employees or agents shall be
 1370 governed by s. 768.28. The sponsor shall not be liable for civil
 1371 damages under state law for the employment actions or personal
 1372 injury, property damage, or death resulting from an act or
 1373 omission of a hope operator, the school of hope, or its
 1374 employees or agents. This paragraph does not include any for-
 1375 profit entity contracted by the charter school or its governing

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1376 body.

1377 Section 47. For the purpose of incorporating the amendment
1378 made by this act to section 768.28, Florida Statutes, in a
1379 reference thereto, subsection (17) of section 1002.34, Florida
1380 Statutes, is reenacted to read:

1381 1002.34 Charter technical career centers.—

1382 (17) IMMUNITY.—For the purposes of tort liability, the
1383 governing body and employees of a center are governed by s.
1384 768.28.

1385 Section 48. For the purpose of incorporating the amendment
1386 made by this act to section 768.28, Florida Statutes, in a
1387 reference thereto, paragraph (1) of subsection (3) of section
1388 1002.55, Florida Statutes, is reenacted to read:

1389 1002.55 School-year prekindergarten program delivered by
1390 private prekindergarten providers.—

1391 (3) To be eligible to deliver the prekindergarten program,
1392 a private prekindergarten provider must meet each of the
1393 following requirements:

1394 (1) Notwithstanding paragraph (j), for a private
1395 prekindergarten provider that is a state agency or a subdivision
1396 thereof, as defined in s. 768.28(2), the provider must agree to
1397 notify the coalition of any additional liability coverage
1398 maintained by the provider in addition to that otherwise
1399 established under s. 768.28. The provider shall indemnify the
1400 coalition to the extent permitted by s. 768.28. Notwithstanding

1401 paragraph (j), for a child development program that is
 1402 accredited by a national accrediting body and operates on a
 1403 military installation that is certified by the United States
 1404 Department of Defense, the provider may demonstrate liability
 1405 coverage by affirming that it is subject to the Federal Tort
 1406 Claims Act, 28 U.S.C. ss. 2671 et seq.

1407 Section 49. For the purpose of incorporating the amendment
 1408 made by this act to section 768.28, Florida Statutes, in a
 1409 reference thereto, subsection (10) of section 1002.83, Florida
 1410 Statutes, is reenacted to read:

1411 1002.83 Early learning coalitions.—

1412 (10) For purposes of tort liability, each member or
 1413 employee of an early learning coalition shall be governed by s.
 1414 768.28.

1415 Section 50. For the purpose of incorporating the amendment
 1416 made by this act to section 768.28, Florida Statutes, in a
 1417 reference thereto, paragraph (p) of subsection (1) of section
 1418 1002.88, Florida Statutes, is reenacted to read:

1419 1002.88 School readiness program provider standards;
 1420 eligibility to deliver the school readiness program.—

1421 (1) To be eligible to deliver the school readiness
 1422 program, a school readiness program provider must:

1423 (p) Notwithstanding paragraph (m), for a provider that is
 1424 a state agency or a subdivision thereof, as defined in s.
 1425 768.28(2), agree to notify the coalition of any additional

1426 liability coverage maintained by the provider in addition to
1427 that otherwise established under s. 768.28. The provider shall
1428 indemnify the coalition to the extent permitted by s. 768.28.
1429 Notwithstanding paragraph (m), for a child development program
1430 that is accredited by a national accrediting body and operates
1431 on a military installation that is certified by the United
1432 States Department of Defense, the provider may demonstrate
1433 liability coverage by affirming that it is subject to the
1434 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

1435 Section 51. For the purpose of incorporating the amendment
1436 made by this act to section 768.28, Florida Statutes, in a
1437 reference thereto, subsection (1) of section 1006.24, Florida
1438 Statutes, is reenacted to read:

1439 1006.24 Tort liability; liability insurance.—

1440 (1) Each district school board shall be liable for tort
1441 claims arising out of any incident or occurrence involving a
1442 school bus or other motor vehicle owned, maintained, operated,
1443 or used by the district school board to transport persons, to
1444 the same extent and in the same manner as the state or any of
1445 its agencies or subdivisions is liable for tort claims under s.
1446 768.28, except that the total liability to persons being
1447 transported for all claims or judgments of such persons arising
1448 out of the same incident or occurrence shall not exceed an
1449 amount equal to \$5,000 multiplied by the rated seating capacity
1450 of the school bus or other vehicle, as determined by rules of

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1451 the State Board of Education, or \$100,000, whichever is greater.
1452 The provisions of s. 768.28 apply to all claims or actions
1453 brought against district school boards, as authorized in this
1454 subsection.

1455 Section 52. For the purpose of incorporating the amendment
1456 made by this act to section 768.28, Florida Statutes, in a
1457 reference thereto, paragraph (b) of subsection (2) of section
1458 1006.261, Florida Statutes, is reenacted to read:

1459 1006.261 Use of school buses for public purposes.—

1460 (2)

1461 (b) For purposes of liability for negligence, state
1462 agencies or subdivisions as defined in s. 768.28(2) shall be
1463 covered by s. 768.28. Every other corporation or organization
1464 shall provide liability insurance coverage in the minimum
1465 amounts of \$100,000 on any claim or judgment and \$200,000 on all
1466 claims and judgments arising from the same incident or
1467 occurrence.

1468 Section 53. This act shall take effect July 1, 2022.