

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Beltran offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (5), paragraphs (a) and (d) 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.-

(5)(a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the

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17 period before judgment. Neither the state nor its agencies or
18 subdivisions shall be liable to pay a claim or a judgment by any
19 one person which exceeds the sum of \$2,500,000 ~~\$200,000~~ or any
20 claim or judgment, or portions thereof, which, when totaled with
21 all other claims or judgments paid by the state or its agencies
22 or subdivisions arising out of the same incident or occurrence,
23 exceeds the sum of \$5,000,000 ~~\$300,000~~. However, a judgment or
24 judgments may be claimed and rendered in excess of these amounts
25 and may be settled and paid pursuant to this section ~~act~~ up to
26 \$2,500,000 ~~\$200,000~~ or \$5,000,000, as applicable. ~~The \$300,000,~~
27 ~~as the case may be; and that~~ portion of the judgment that
28 exceeds these amounts may be reported to the Legislature, and
29 ~~but~~ may be paid in part or in whole ~~only~~ by further act of the
30 Legislature.

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

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41 tortious acts in excess of the ~~\$200,000 or \$300,000~~ waiver
42 provided in paragraph (a) above.

43 (c) The limitations of liability set forth in this
44 subsection shall apply to the state and its agencies and
45 subdivisions whether or not the state or its agencies or
46 subdivisions possessed sovereign immunity before July 1, 1974.

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

59 (6) (a) An action may not be instituted on a claim against
60 the state or one of its agencies or subdivisions unless the
61 claimant presents the claim in writing to the appropriate
62 agency, and also, except as to any claim against a municipality,
63 county, or the Florida Space Authority, presents such claim in
64 writing to the Department of Financial Services, within 4 ~~3~~
65 years after such claim accrues and the Department of Financial

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66 Services or the appropriate agency denies the claim in writing;
67 except that, if:

68 1. Such claim is for contribution pursuant to s. 768.31,
69 it must be so presented within 6 months after the judgment
70 against the tortfeasor seeking contribution has become final by
71 lapse of time for appeal or after appellate review or, if there
72 is no such judgment, within 6 months after the tortfeasor
73 seeking contribution has either discharged the common liability
74 by payment or agreed, while the action is pending against her or
75 him, to discharge the common liability; ~~or~~

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

79 3. Such action arises from a violation of s. 794.011
80 involving a victim who was younger than the age of 16 at the
81 time of the act, the claimant may present the claim in writing
82 at any time pursuant to s. 95.11(9). This subparagraph applies
83 to a claim accruing at any time but shall also be construed in
84 accordance with s. 95.11(9) to apply only to claims which would
85 not have been time barred on or before July 1, 2010.

86 (d) For purposes of this section, complete, accurate, and
87 timely compliance with the requirements of paragraph (c) shall
88 occur prior to settlement payment, close of discovery or
89 commencement of trial, whichever is sooner; provided the ability
90 to plead setoff is not precluded by the delay. This setoff shall

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91 apply only against that part of the settlement or judgment
92 payable to the claimant, minus claimant's reasonable attorney's
93 fees and costs. Incomplete or inaccurate disclosure of unpaid
94 adjudicated claims due the state, its agency, officer, or
95 subdivision, may be excused by the court upon a showing by the
96 preponderance of the evidence of the claimant's lack of
97 knowledge of an adjudicated claim and reasonable inquiry by, or
98 on behalf of, the claimant to obtain the information from public
99 records. Unless the appropriate agency had actual notice of the
100 information required to be disclosed by paragraph (c) in time to
101 assert a setoff, an unexcused failure to disclose shall, upon
102 hearing and order of court, cause the claimant to be liable for
103 double the original undisclosed judgment and, upon further
104 motion, the court shall enter judgment for the agency in that
105 amount. Except as provided otherwise in this subsection, the
106 failure of the Department of Financial Services or the
107 appropriate agency to make final disposition of a claim within 3
108 ~~6~~ months after it is filed shall be deemed a final denial of the
109 claim for purposes of this section. For purposes of this
110 subsection, in medical malpractice actions and in wrongful death
111 actions, the failure of the Department of Financial Services or
112 the appropriate agency to make final disposition of a claim
113 within 90 days after it is filed shall be deemed a final denial
114 of the claim. The statute of limitations for medical malpractice
115 actions and wrongful death actions is tolled for the period of

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116 time taken by the Department of Financial Services or the
117 appropriate agency to deny the claim. The provisions of this
118 subsection do not apply to such claims as may be asserted by
119 counterclaim pursuant to s. 768.14.

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

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

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

131 (c) An action arising from any act constituting a
132 violation of s. 794.011 involving a victim who was younger than
133 the age of 16 at the time of the act may be commenced at any
134 time pursuant to s. 95.11(9). This paragraph applies to a claim
135 accruing at any time as long as such claim would not have been
136 time barred on or before July 1, 2010, under s. 95.11(9).

137 Section 2. Sections 45.061, 110.504, 111.071, 163.01,
138 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,
139 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395, 375.251,
140 381.0056, 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32,

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141 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046,
142 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112,
143 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,
144 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and
145 1006.261, Florida Statutes, are reenacted for the purpose of
146 incorporating the amendments made by this act to s. 768.28,
147 Florida Statutes, in references thereto.

148 Section 3. Except as otherwise expressly provided herein,
149 this act applies to claims accruing on or after October 1, 2024.

150 Section 4. This act shall take effect October 1, 2024.

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

Remove everything before the enacting clause and insert:
An act relating to sovereign immunity; amending s. 768.28,
F.S.; revising the statutory limits on liability for tort
claims against the state and its agencies and subdivisions;
revising requirements for a government entity to settle a
claim or judgment; revising the timeframe within which the
appropriate agency must make final disposition of a claim
after it is filed to prevent the claim from being deemed
denied; revising exceptions relating to instituting actions
on claims against the state or one of its agencies and to
the statute of limitations for such claims; reenacting ss.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 401 (2023)

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166 45.061, 110.504, 111.071, 163.01, 190.043, 213.015, 252.51,
167 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19,
168 341.302, 351.03, 373.1395, 375.251, 381.0056, 393.075,
169 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,
170 456.076, 471.038, 472.006, 497.167, 513.118, 548.046,
171 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115,
172 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514,
173 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83,
174 1002.88, 1006.24, and 1006.261, F.S., to incorporate the
175 amendments made to s. 768.28, F.S., in references thereto;
176 providing applicability; providing an effective date.