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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2024	.	
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The Committee on Appropriations (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 128

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;



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11 exclusions; indemnification; risk management programs.-

12 (5) (a) The state and its agencies and subdivisions shall be
13 liable for tort claims in the same manner and to the same extent
14 as a private individual under like circumstances, but liability
15 shall not include punitive damages or interest for the period
16 before judgment. Neither the state nor its agencies or
17 subdivisions shall be liable to pay a claim or a judgment by any
18 one person which exceeds the sum of \$400,000 ~~\$200,000~~ or any
19 claim or judgment, or portions thereof, which, when totaled with
20 all other claims or judgments paid by the state or its agencies
21 or subdivisions arising out of the same incident or occurrence,
22 exceeds the sum of \$600,000 ~~\$300,000~~. However, a judgment or
23 judgments may be claimed and rendered in excess of these amounts
24 ~~and may be settled~~ and paid pursuant to this act up to \$400,000
25 or \$600,000 ~~\$200,000 or \$300,000~~, as the case may be; and that
26 portion of the judgment that exceeds these amounts may be
27 reported to the Legislature, and ~~but~~ may be paid in part or in
28 whole ~~only~~ by further act of the Legislature.

29 (b) Notwithstanding the limited waiver of sovereign
30 immunity provided in paragraph (a):

31 1. herein, The state or an agency ~~or subdivision~~ thereof
32 may agree, within the limits of insurance coverage provided, to
33 settle a claim made or a judgment rendered against it in excess
34 of the waiver provided in paragraph (a) without further action
35 by the Legislature.

36 2. A subdivision of the state may agree to settle a claim
37 made or a judgment rendered against it in excess of the waiver
38 provided in paragraph (a) without further action by the
39 Legislature.



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40
41 However, but the state or an agency or subdivision thereof shall
42 not be deemed to have waived any defense of sovereign immunity
43 or to have increased the limits of its liability as a result of
44 its obtaining insurance coverage for tortious acts in excess of
45 the ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a).

46 However, a party may not lobby against any agreed upon
47 settlement brought to the Legislature as a settled claim bill
48 above. An insurance policy may not condition the payment of
49 benefits, in whole or in part, on the enactment of a claim bill.

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

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

66 (e) When determining liability limits for a claim, the
67 limitations of liability in effect on the date when the claim
68 incident occurred apply to the settled claim.



69 (f) Beginning July 1, 2029, and on July 1 every 5 years
70 thereafter, the Department of Financial Services shall adjust
71 the limitations of liability in this subsection to reflect
72 changes in the Consumer Price Index for the Southeast or a
73 successor index as calculated by the United States Department of
74 Labor, not to exceed 3 percent for any such adjustment.

75
76 ===== T I T L E A M E N D M E N T =====

77 And the title is amended as follows:

78 Delete lines 3 - 19

79 and insert:

80 amending s. 768.28, F.S.; increasing the statutory
81 limits on liability for tort claims against the state
82 and its agencies and subdivisions; prohibiting
83 insurance policies from placing conditions for payment
84 upon the enactment of a claim bill; authorizing a
85 subdivision of the state to settle a claim in excess
86 of the statutory limit without further action by the
87 Legislature regardless of insurance coverage limits;
88 prohibiting a party from lobbying against any agreed
89 upon settlement brought to the Legislature as a claim
90 bill; specifying that the limitations in effect on the
91 date when the claim incident occurred apply to a
92 settled claim; requiring the Department of Financial
93 Services, beginning on a specified date and every 5
94 years thereafter, to adjust the limitations of
95 liability for claims, not to exceed a certain
96 percentage for each such adjustment;