

By Senator Brodeur

10-01036B-26

20261366

10-01036B-26

20261366

30 reenacting ss. 45.061(5), 95.11(6)(f), 110.504(4),
31 111.071(1)(a), 125.01015(2)(b), 163.01(3)(h) and
32 (15)(k), 190.043, 213.015(13), 252.51, 252.89,
33 252.944, 260.0125(2), 284.31, 284.38, 322.13(1)(b),
34 337.19(1), 341.302(17), 343.811(3), 351.03(4)(c),
35 373.1395(6), 375.251(3)(a), 381.0056(9), 393.075(3),
36 394.9085(7), 395.1055(10)(g), 403.706(17)(c),
37 409.175(15)(b), 409.993(1), (2)(a), and (3)(a),
38 420.504(8), 455.221(3), 455.32(5), 456.009(3),
39 456.076(15)(a), 471.038(3), 472.006(11)(b),
40 497.167(7), 513.118(2), 548.046(1), 556.106(8),
41 589.19(4)(e), 627.7491(3) and (4), 723.0611(2)(c),
42 760.11(5), 766.1115(4), 766.112(2), 768.1355(3),
43 768.1382(7), 768.295(4), 946.5026, 946.514(3),
44 961.06(8), 984.09(3), 1002.33(12)(h), 1002.333(6)(b),
45 1002.34(17), 1002.37(2), 1002.55(3)(l), 1002.83(10),
46 1002.88(1)(p), 1006.24(1), and 1006.261(2)(b), F.S.,
47 relating to offers of settlement; limitations other
48 than for the recovery of real property; volunteer
49 benefits; payment of judgments or settlements against
50 certain public officers or employees; office of the
51 sheriff; the Florida Interlocal Cooperation Act of
52 1969; suits against community development districts;
53 taxpayer rights; liability; tort liability; tort
54 liability; limitation on liability of private
55 landowners whose property is designated as part of the
56 statewide system of greenways and trails; scope and
57 types of coverages; effect of waiver of sovereign
58 immunity; driver license examiners; suits by and

10-01036B-26

20261366

59 against the Department of Transportation; rail
60 program; power to assume indemnification and insurance
61 obligations; railroad-highway grade-crossing warning
62 signs and signals; limitation on liability of a water
63 management district with respect to areas made
64 available to the public for recreational purposes
65 without charge; limitation on liability of persons
66 making available to the public certain areas for
67 recreational purposes without charge; school health
68 services program; general liability coverage;
69 behavioral provider liability; rules and enforcement;
70 local government solid waste responsibilities;
71 licensure of family foster homes, residential child-
72 caring agencies, and child-placing agencies; lead
73 agencies and subcontractor liability; the Florida
74 Housing Finance Corporation; legal and investigative
75 services; the Management Privatization Act; legal and
76 investigative services; impaired practitioner
77 programs; the Florida Engineers Management
78 Corporation; the Department of Agriculture and
79 Consumer Services; administrative matters; conduct on
80 premises and refusal of service; physician's
81 attendance at match; liability of the member operator,
82 excavator, and system; creation of certain state
83 forests, naming of certain state forests, and the
84 Operation Outdoor Freedom Program; official law
85 enforcement vehicles and motor vehicle insurance
86 requirements; the Florida Mobile Home Relocation
87 Corporation; administrative and civil remedies and

10-01036B-26

20261366

88 construction; health care providers and creation of
89 agency relationship with governmental contractors;
90 comparative fault; the Florida Volunteer Protection
91 Act; streetlights, security lights, and other similar
92 illumination and limitation on liability; Strategic
93 Lawsuits Against Public Participation (SLAPP)
94 prohibited; sovereign immunity in tort actions;
95 liability of corporation for inmate injuries;
96 compensation for wrongful incarceration; punishment
97 for contempt of court and alternative sanctions;
98 charter schools; persistently low-performing schools;
99 charter technical career centers; the Florida Virtual
100 School; school-year prekindergarten program delivered
101 by private prekindergarten providers; early learning
102 coalitions; school readiness program provider
103 standards and eligibility to deliver the school
104 readiness program; tort liability and liability
105 insurance; and use of school buses for public
106 purposes, respectively, to incorporate changes made to
107 s. 768.28, F.S., in references thereto; providing an
108 effective date.

109
110 Be It Enacted by the Legislature of the State of Florida:
111
112 Section 1. Section 768.28, Florida Statutes, is amended to
113 read:
114 768.28 Waiver of sovereign immunity in tort actions;
115 recovery limits; civil liability for damages caused during a
116 riot; limitation on attorney fees; statute of limitations;

10-01036B-26

20261366

117 exclusions; indemnification; risk management programs.—

118 (1) In accordance with s. 13, Art. X of the State
119 Constitution, the state, for itself and for its agencies or
120 subdivisions, hereby waives sovereign immunity for liability for
121 torts, but only to the extent specified in this section act.
122 Actions at law against the state or any of its agencies or
123 subdivisions to recover damages in tort for money damages
124 against the state or its agencies or subdivisions for injury or
125 loss of property, personal injury, or death caused by the
126 negligent or wrongful act or omission of any employee of the
127 agency or subdivision while acting within the scope of the
128 employee's office or employment under circumstances in which the
129 state or such agency or subdivision, if a private person, would
130 be liable to the claimant, in accordance with the general laws
131 of this state, may be prosecuted subject to the limitations
132 specified in this section act. Any authorized such action may be
133 brought in the county where the property in litigation is
134 located or, if the affected agency or subdivision has an office
135 in the such county for the transaction of its customary
136 business, where the cause of action accrued. However, an any
137 such action against a state university board of trustees must
138 shall be brought in the county in which that university's main
139 campus is located or in the county in which the cause of action
140 accrued if the university maintains therein a substantial
141 presence for the transaction of its customary business in that
142 county.

143 (2) As used in this act, "state agencies or subdivisions"
144 include the executive departments, the Legislature, the judicial
145 branch (including public defenders), and the independent

10-01036B-26

20261366

146 establishments of the state, including state university boards
147 of trustees; counties and municipalities; and corporations
148 primarily acting as instrumentalities or agencies of the state,
149 counties, or municipalities, including the Florida Space
150 Authority.

151 (3) Except for a municipality and the Florida Space
152 Authority, the affected agency or subdivision may, at its
153 discretion, request the assistance of the Department of
154 Financial Services in the consideration, adjustment, and
155 settlement of any claim under this section ~~act~~.

156 (4) Subject to the provisions of this section, any state
157 agency or subdivision may ~~shall~~ ~~have the right to~~ appeal any
158 award, compromise, settlement, or determination to the court of
159 appropriate jurisdiction.

160 (5) (a) The state and its agencies and subdivisions are
161 ~~shall~~ be liable for tort claims in the same manner and to the
162 same extent as a private individual under like circumstances,
163 but liability may ~~shall~~ not include punitive damages or interest
164 for the period before judgment. ~~Neither~~ The state and ~~nor~~ its
165 agencies or subdivisions are not ~~shall~~ be liable to pay a claim
166 or a judgment by any one person which exceeds the sum of
167 \$300,000 ~~\$200,000~~ or any claim or judgment, or portions of a
168 claim or judgment ~~thereof~~, which, when totaled with all other
169 claims or judgments paid by the state or its agencies or
170 subdivisions arising out of the same incident or occurrence,
171 exceeds the sum of \$450,000 ~~\$300,000~~. However, a judgment or
172 judgments may be claimed and rendered in excess of these amounts
173 and may be settled and paid pursuant to this section ~~act~~ up to
174 \$300,000 ~~\$200,000~~ or \$450,000. Any ~~\$300,000~~, as the case may be;

10-01036B-26

20261366

175 and that portion of the judgment that exceeds these amounts may
176 be reported to the Legislature, but may be paid in part or in
177 whole only by further act of the Legislature.

178 (b) Notwithstanding the limited waiver of sovereign
179 immunity in paragraph (a) provided herein, the state or an
180 agency or subdivision of the state ~~thereof~~ may agree, within the
181 limits of insurance coverage provided, to settle a claim made or
182 a judgment rendered against it without further action by the
183 Legislature, but the state or agency or subdivision of the state
184 ~~may~~ ~~thereof shall~~ not be deemed to have waived any defense of
185 sovereign immunity or to have increased the limits of its
186 liability as a result of its obtaining insurance coverage for
187 tortious acts in excess of the \$300,000 ~~\$200,000~~ or \$450,000
188 ~~\$300,000~~ waiver in paragraph (a) provided above.

189 (c) The limitations of liability ~~set forth~~ in this
190 subsection ~~shall~~ apply to the state and its agencies and
191 subdivisions whether or not the state or its agencies or
192 subdivisions possessed sovereign immunity before July 1, 1974.

193 (d) ~~(b)~~ A municipality has a duty to allow the municipal law
194 enforcement agency to respond appropriately to protect persons
195 and property during a riot or an unlawful assembly based on the
196 availability of adequate equipment to its municipal law
197 enforcement officers and relevant state and federal laws. If the
198 governing body of a municipality or a person authorized by the
199 governing body of the municipality breaches that duty, the
200 municipality is civilly liable for any damages, including
201 damages arising from personal injury, wrongful death, or
202 property damages proximately caused by the municipality's breach
203 of duty. The sovereign immunity recovery limits in paragraph (a)

10-01036B-26

20261366

204 do not apply to an action under this paragraph.

205 (e) When determining liability limits for a claim, the
206 limitations of liability in effect on the date the claim accrues
207 apply to the claim.

208 (f) Beginning July 1, 2031, and on July 1 every 5 years
209 thereafter, the Department of Financial Services shall adjust
210 the limitations of liability in this subsection to reflect
211 changes in the Consumer Price Index for the South region or a
212 successor index as calculated by the United States Department of
213 Labor, not to exceed 3 percent for any such adjustment.

214 (6) (a) An action may not be instituted on a claim against
215 the state or one of its agencies or subdivisions unless the
216 claimant presents the claim in writing to the appropriate
217 agency, and also, except as to any claim against a municipality,
218 county, or the Florida Space Authority, presents the such claim
219 in writing to the Department of Financial Services, within 18
220 months 3 years after the such claim accrues and the Department
221 of Financial Services or the appropriate agency denies the claim
222 in writing; except that, if:

223 1. The such claim is for contribution pursuant to s.
224 768.31, it must be ~~so~~ presented within 6 months after the
225 judgment against the tortfeasor seeking contribution has become
226 final by lapse of time for appeal or after appellate review or,
227 if there is no final such judgment, within 6 months after the
228 tortfeasor seeking contribution has either discharged the common
229 liability by payment or agreed, while the action is pending
230 against her or him, to discharge the common liability; or

231 2. The such action arises from a violation of s. 794.011
232 involving a victim who was younger than 16 years of age at the

10-01036B-26

20261366

233 time of the act, the claimant may present the claim in writing
234 at any time. This subparagraph applies to any action other than
235 an action that would have been time barred on or before October
236 1, 2026 is for wrongful death, the claimant must present the
237 claim in writing to the Department of Financial Services within
238 2 years after the claim accrues.

239 (b) For purposes of this section, the requirements of
240 notice to the agency and denial of the claim pursuant to
241 paragraph (a) are conditions precedent to maintaining an action
242 but may ~~shall~~ not be deemed to be elements of the cause of
243 action and do ~~shall~~ not affect the date on which the cause of
244 action accrues.

245 (c) The claimant shall also provide to the agency the
246 claimant's date and place of birth and social security number if
247 the claimant is an individual, or a federal identification
248 number if the claimant is not an individual. The claimant shall
249 also state the case style, tribunal, the nature and amount of
250 all adjudicated penalties, fines, fees, victim restitution fund,
251 and other judgments in excess of \$200, whether imposed by a
252 civil, criminal, or administrative tribunal, owed by the
253 claimant to the state, its agency, officer or subdivision. If
254 there exists no prior adjudicated unpaid claim in excess of
255 \$200, the claimant shall so state.

256 (d) For purposes of this section, complete, accurate, and
257 timely compliance with the requirements of paragraph (c) must
258 ~~shall occur before prior to~~ settlement payment, close of
259 discovery, or commencement of trial, whichever is earlier
260 ~~sooner~~; provided the ability to plead setoff is not precluded by
261 the delay. This setoff applies ~~shall apply~~ only against that

10-01036B-26

20261366

262 part of the settlement or judgment payable to the claimant,
263 minus claimant's reasonable attorney attorney's fees and costs.
264 Incomplete or inaccurate disclosure of unpaid adjudicated claims
265 due the state or, its agency, officer, or subdivision, may be
266 excused by the court upon a showing by the preponderance of the
267 evidence of the claimant's lack of knowledge of an adjudicated
268 claim and reasonable inquiry by, or on behalf of, the claimant
269 to obtain the information from public records. Unless the
270 appropriate agency had actual notice of the information required
271 to be disclosed by paragraph (c) in time to assert a setoff, an
272 unexcused failure to disclose shall, upon hearing and order of
273 court, cause the claimant to be liable for double the original
274 undisclosed judgment and, upon further motion, the court shall
275 enter judgment for the agency in that amount. Except as provided
276 otherwise in this subsection, the failure of the Department of
277 Financial Services or the appropriate agency to make final
278 disposition of a claim within 4 months ~~6 months~~ after it is
279 filed shall be deemed a final denial of the claim for purposes
280 of this section. For purposes of this subsection, in medical
281 malpractice actions and in wrongful death actions, the failure
282 of the Department of Financial Services or the appropriate
283 agency to make final disposition of a claim within 90 days after
284 it is filed shall be deemed a final denial of the claim. The
285 statute of limitations ~~for medical malpractice actions and~~
286 ~~wrongful death actions~~ is tolled as to all prospective
287 defendants for the period of time taken by the Department of
288 Financial Services or the appropriate agency to deny the claim.
289 ~~The provisions of~~ This subsection does ~~do~~ not apply to ~~such~~
290 claims that ~~as~~ may be asserted by counterclaim pursuant to s.

10-01036B-26

20261366

291 768.14.

292 (7) In actions brought pursuant to this section, process
293 must shall be served upon the head of the agency concerned and
294 also, except as to a defendant municipality, county, or the
295 Florida Space Authority, upon the Department of Financial
296 Services. ; and The department or the agency served has concerned
297 shall have 30 days within which to file responsive pleadings
298 plead thereto.

299 (8) An No attorney may not charge, demand, receive, or
300 collect, for services rendered, fees in excess of 25 percent of
301 any funds recovered as a result of judgment or settlement. In
302 the enactment of a claim bill, as to payments made to the
303 claimant in excess of the limits in paragraph (5) (a), the
304 Legislature has the sole discretion to award an attorney fee
305 applicable to the excess which is less than 25 percent,
306 notwithstanding any agreement. The Legislature may also limit
307 payments for costs or otherwise reserve a portion of the
308 proceeds to the claimant. This subsection is deemed to be a part
309 of any fee agreement.

310 (9) (a) An officer, employee, or agent of the state or of
311 any of its subdivisions may not be held personally liable in
312 tort or named as a party defendant in any action for any injury
313 or damage suffered as a result of any act, event, or omission of
314 action in the scope of her or his employment or function, unless
315 the such officer, employee, or agent acted in bad faith or with
316 malicious purpose or in a manner exhibiting wanton and willful
317 disregard of human rights, safety, or property. However, the
318 such officer, employee, or agent shall be considered an adverse
319 witness in a tort action for any injury or damage suffered as a

10-01036B-26

20261366

320 result of any act, event, or omission of action in the scope of
321 her or his employment or function. The exclusive remedy for
322 injury or damage suffered as a result of an act, event, or
323 omission of an officer, employee, or agent of the state or any
324 of its subdivisions or constitutional officers is by action
325 against the governmental entity, or the head of such entity in
326 her or his official capacity, or the constitutional officer of
327 which the officer, employee, or agent is an employee, unless the
328 such act or omission was committed in bad faith or with
329 malicious purpose or in a manner exhibiting wanton and willful
330 disregard of human rights, safety, or property. The state or its
331 subdivisions are not liable in tort for the acts or omissions of
332 an officer, employee, or agent committed while acting outside
333 the course and scope of her or his employment or committed in
334 bad faith or with malicious purpose or in a manner exhibiting
335 wanton and willful disregard of human rights, safety, or
336 property.

337 (b) As used in this subsection, the term:
338 1. "Employee" includes any volunteer firefighter.
339 2. "Officer, employee, or agent" includes, but is not
340 limited to, any health care provider when providing services
341 pursuant to s. 766.1115; any nonprofit independent college or
342 university located and chartered in this state which owns or
343 operates an accredited medical school, and its employees or
344 agents, when providing patient services pursuant to paragraph
345 (10) (f); any public defender or her or his employee or agent,
346 including an assistant public defender or an investigator; and
347 any member of a Child Protection Team, as defined in s. 39.01,
348 or any member of a threat management team, as described in s.

10-01036B-26

20261366

349 1006.07(7), when carrying out her or his duties as a team member
350 under the control, direction, and supervision of the state or
351 any of its agencies or subdivisions.

352 (c) For purposes of the waiver of sovereign immunity only,
353 a member of the Florida National Guard is not acting within the
354 scope of state employment when performing duty under the
355 provisions of Title 10 or Title 32 of the United States Code or
356 other applicable federal law; and ~~neither~~ the state or ~~nor~~ any
357 individual may not be named in any action under this chapter
358 arising from the performance of such federal duty.

359 (d) The employing agency of a law enforcement officer as
360 defined in s. 943.10 is not liable for injury, death, or
361 property damage effected or caused by a person fleeing from a
362 law enforcement officer in a motor vehicle if:

363 1. The pursuit is conducted in a manner that does not
364 involve conduct by the officer which is so reckless or wanting
365 in care as to constitute disregard of human life, human rights,
366 safety, or the property of another;

367 2. At the time the law enforcement officer initiates the
368 pursuit, the officer reasonably believes that the person fleeing
369 has committed a forcible felony as defined in s. 776.08; and

370 3. The pursuit is conducted by the officer pursuant to a
371 written policy governing high-speed pursuit adopted by the
372 employing agency. The policy must contain specific procedures
373 concerning the proper method to initiate and terminate high-
374 speed pursuit. The law enforcement officer must have received
375 instructional training from the employing agency on the written
376 policy governing high-speed pursuit.

377 (10) (a) Health care providers or vendors, or any of their

10-01036B-26

20261366

378 employees or agents, that have contractually agreed to act as
379 agents of the Department of Corrections to provide health care
380 services to inmates of the state correctional system shall be
381 considered agents of the State of Florida, Department of
382 Corrections, for the purposes of this section, while acting
383 within the scope of and pursuant to guidelines established in
384 their contracts ~~said contract~~ or by rule. The contracts must
385 shall provide for the indemnification of the state by the agent
386 for any liabilities incurred up to the limits set out in this
387 chapter.

388 (b) This subsection may ~~shall~~ not be construed as
389 designating persons providing contracted health care services to
390 inmates as employees or agents of the state for the purposes of
391 chapter 440.

392 (c) For purposes of this section, regional poison control
393 centers created in accordance with s. 395.1027 and coordinated
394 and supervised under the Division of Children's Medical Services
395 Prevention and Intervention of the Department of Health, or any
396 of their employees or agents, shall be considered agents of the
397 State of Florida, Department of Health. Any contracts with
398 poison control centers must provide, to the extent permitted by
399 law, for the indemnification of the state by the agency for any
400 liabilities incurred up to the limits set out in this chapter.

401 (d) For the purposes of this section, operators,
402 dispatchers, and providers of security for rail services and
403 rail facility maintenance providers in the South Florida Rail
404 Corridor, or any of their employees or agents, performing ~~such~~
405 services under contract with and on behalf of the South Florida
406 Regional Transportation Authority or the Department of

10-01036B-26

20261366

407 Transportation shall be considered agents of the state while
408 acting within the scope of and pursuant to guidelines
409 established in their contracts ~~said contract~~ or by rule.

410 (e) For purposes of this section, a professional firm that
411 provides monitoring and inspection services of the work required
412 for state roadway, bridge, or other transportation facility
413 construction projects, or any employee of a firm performing
414 those such services, is considered an agent of the Department of
415 Transportation while acting within the scope of the firm's
416 contract with the Department of Transportation to ensure that
417 the project is constructed in conformity with the project's
418 plans, specifications, and contract provisions. This paragraph
419 applies to a professional firm that is in direct contract with
420 the Department of Transportation, as well as any professional
421 firm providing monitoring and inspection services as a
422 consultant to the professional firm that is in direct contract
423 with the Department of Transportation. Any contract with a
424 professional firm must, to the extent permitted by law, provide
425 for the indemnification of the Department of Transportation for
426 any liability, including reasonable attorney fees, incurred up
427 to the limits set out in this chapter to the extent caused by
428 the negligence of the firm or its employees. This paragraph may
429 not be construed as designating persons who provide monitoring
430 and inspection services as employees or agents of the state for
431 purposes of chapter 440. This paragraph is not applicable to the
432 professional firm or its employees if involved in an accident
433 while operating a motor vehicle. This paragraph is not
434 applicable to a firm engaged by the Department of Transportation
435 for the design or construction of a state roadway, bridge, or

10-01036B-26

20261366

436 other transportation facility construction project or to its
437 employees, agents, or subcontractors.

438 (f) For purposes of this section, any nonprofit independent
439 college or university located and chartered in this state which
440 owns or operates an accredited medical school, or any of its
441 employees or agents, and which has agreed in an affiliation
442 agreement or other contract to provide, or permit its employees
443 or agents to provide, patient services as agents of a teaching
444 hospital, is considered an agent of the teaching hospital while
445 acting within the scope of and pursuant to guidelines
446 established in the affiliation agreement or other contract. To
447 the extent allowed by law, the contract must provide for the
448 indemnification of the teaching hospital, up to the limits set
449 out in this chapter, by the agent for any liability incurred
450 which was caused by the negligence of the college or university
451 or its employees or agents. The contract must also provide that
452 those limited portions of the college, university, or medical
453 school which are directly providing services pursuant to the
454 contract and which are considered an agent of the teaching
455 hospital for purposes of this section are deemed to be acting on
456 behalf of a public agency as defined in s. 119.011(2).

457 1. For purposes of this paragraph, the term:

458 a. "Employee or agent" means an officer, employee, agent,
459 or servant of a nonprofit independent college or university
460 located and chartered in this state which owns or operates an
461 accredited medical school, including, but not limited to, the
462 faculty of the medical school, any health care practitioner or
463 licensee as defined in s. 456.001 for which the college or
464 university is vicariously liable, and the staff or

10-01036B-26

20261366

465 administrators of the medical school.

466 b. "Patient services" means:

467 (I) Comprehensive health care services as defined in s.
468 641.19, including any related administrative service, provided
469 to patients in a teaching hospital;

470 (II) Training and supervision of interns, residents, and
471 fellows providing patient services in a teaching hospital; or

472 (III) Training and supervision of medical students in a
473 teaching hospital.

474 c. "Teaching hospital" means a teaching hospital as defined
475 in s. 408.07 which is owned or operated by the state, a county
476 or municipality, a public health trust, a special taxing
477 district, a governmental entity having health care
478 responsibilities, or a not-for-profit entity that operates such
479 facility as an agent of the state, or a political subdivision of
480 the state, under a lease or other contract.

481 2. The teaching hospital or the medical school, or its
482 employees or agents, must provide notice to each patient, or the
483 patient's legal representative, that the college or university
484 that owns or operates the medical school and the employees or
485 agents of that college or university are acting as agents of the
486 teaching hospital and that the exclusive remedy for injury or
487 damage suffered as the result of any act or omission of the
488 teaching hospital, the college or university that owns or
489 operates the medical school, or the employees or agents of the
490 college or university, while acting within the scope of duties
491 pursuant to the affiliation agreement or other contract with a
492 teaching hospital, is by commencement of an action pursuant to
493 the provisions of this section. This notice requirement may be

10-01036B-26

20261366

494 met by posting the notice in a place conspicuous to all persons.

495 3. This paragraph does not designate any employee providing
496 contracted patient services in a teaching hospital as an
497 employee or agent of the state for purposes of chapter 440.

498 (g) For the purposes of this section, the executive
499 director of the Board of Nursing, when serving as the state
500 administrator of the Nurse Licensure Compact pursuant to s.
501 464.0095, and any administrator, officer, executive director,
502 employee, or representative of the Interstate Commission of
503 Nurse Licensure Compact Administrators, when acting within the
504 scope of their employment, duties, or responsibilities in this
505 state, are considered agents of the state. The commission shall
506 pay any claims or judgments pursuant to this section and may
507 maintain insurance coverage to pay any such claims or judgments.

508 (h) For purposes of this section, the individual appointed
509 under s. 491.004(8) as the state's delegate on the Counseling
510 Compact Commission, when serving in that capacity pursuant to s.
511 491.017, and any administrator, officer, executive director,
512 employee, or representative of the commission, when acting
513 within the scope of his or her employment, duties, or
514 responsibilities in this state, is considered an agent of the
515 state. The commission shall pay any claims or judgments pursuant
516 to this section and may maintain insurance coverage to pay those
517 ~~any such~~ claims or judgments.

518 (i) For purposes of this section, the individual appointed
519 under s. 490.004(7) as the state's commissioner on the
520 Psychology Interjurisdictional Compact Commission, when serving
521 in that capacity pursuant to s. 490.0075, and any administrator,
522 officer, executive director, employee, or representative of the

10-01036B-26

20261366

523 Psychology Interjurisdictional Compact Commission, when acting
524 within the scope of his or her employment, duties, or
525 responsibilities in this state, is considered an agent of the
526 state. The commission shall pay any claims or judgments pursuant
527 to this section and may maintain insurance coverage to pay those
528 ~~any such~~ claims or judgments.

529 (j) For purposes of this section, the representative
530 appointed from the Board of Medicine and the representative
531 appointed from the Board of Osteopathic Medicine, when serving
532 as commissioners of the Interstate Medical Licensure Compact
533 Commission pursuant to s. 456.4501, and any administrator,
534 officer, executive director, employee, or representative of the
535 Interstate Medical Licensure Compact Commission, when acting
536 within the scope of their employment, duties, or
537 responsibilities in this state, are considered agents of the
538 state. The commission shall pay any claims or judgments pursuant
539 to this section and may maintain insurance coverage to pay those
540 ~~any such~~ claims or judgments.

541 (k) For purposes of this section, the individuals appointed
542 under s. 468.1135(4) as the state's delegates on the Audiology
543 and Speech-Language Pathology Interstate Compact Commission,
544 when serving in that capacity pursuant to s. 468.1335, and any
545 administrator, officer, executive director, employee, or
546 representative of the commission, when acting within the scope
547 of his or her employment, duties, or responsibilities in this
548 state, is considered an agent of the state. The commission shall
549 pay any claims or judgments pursuant to this section and may
550 maintain insurance coverage to pay those ~~any such~~ claims or
551 judgments.

10-01036B-26

20261366

552 (1) For purposes of this section, the individual appointed
553 under s. 486.023(5) as the state's delegate on the Physical
554 Therapy Compact Commission, when serving in that capacity
555 pursuant to s. 486.112, and any administrator, officer,
556 executive director, employee, or representative of the Physical
557 Therapy Compact Commission, when acting within the scope of his
558 or her employment, duties, or responsibilities in this state, is
559 considered an agent of the state. The commission shall pay any
560 claims or judgments pursuant to this section and may maintain
561 insurance coverage to pay those any such claims or judgments.

562 (11) (a) Providers or vendors, or any of their employees or
563 agents, that have contractually agreed to act on behalf of the
564 state as agents of the Department of Juvenile Justice to provide
565 services to children in need of services, families in need of
566 services, or juvenile offenders are, solely with respect to such
567 services, agents of the state for purposes of this section while
568 acting within the scope of and pursuant to guidelines
569 established in the contract or by rule. A contract must provide
570 for the indemnification of the state by the agent for any
571 liabilities incurred up to the limits set out in this chapter.

572 (b) This subsection does not designate a person who
573 provides contracted services to juvenile offenders as an
574 employee or agent of the state for purposes of chapter 440.

575 (12) (a) A health care practitioner, as defined in s.
576 456.001(4), who has contractually agreed to act as an agent of a
577 state university board of trustees to provide medical services
578 to a student athlete for participation in or as a result of
579 intercollegiate athletics, to include team practices, training,
580 and competitions, shall be considered an agent of the respective

10-01036B-26

20261366

581 state university board of trustees, for the purposes of this
582 section, while acting within the scope of and pursuant to
583 guidelines established in that contract. The contracts must
584 ~~shall~~ provide for the indemnification of the state by the agent
585 for any liabilities incurred up to the limits set out in this
586 chapter.

587 (b) This subsection may ~~shall~~ not be construed as
588 designating persons providing contracted health care services to
589 athletes as employees or agents of a state university board of
590 trustees for the purposes of chapter 440.

591 (13) Laws allowing the state or its agencies or
592 subdivisions to buy insurance are still in force and effect and
593 are not restricted in any way by the terms of this section ~~act~~.

594 (14) A ~~Every~~ claim against the state or one of its agencies
595 or subdivisions for damages for a negligent or wrongful act or
596 omission pursuant to this section is ~~shall be forever~~ barred
597 unless the civil action is commenced by filing a complaint in
598 the court of appropriate jurisdiction:

599 (a) Within 2 years for an action founded on negligence.

600 (b) Within the limitations provided in s. 768.31(4) for an
601 action for contribution.

602 (c) Within the limitations provided in s. 95.11(5) for an
603 action for damages arising from medical malpractice or wrongful
604 death.

605 (d) At any time for an action arising from an act
606 constituting a violation of s. 794.011 involving a victim who
607 was under the age of 16 years at the time of the act. This
608 paragraph applies to any such action other than an action that
609 would have been time barred on or before October 1, 2026.

10-01036B-26

20261366

610 (e) Within 4 years for any other action not specified in
611 ~~this subsection 4 years after the such claim accrues; except~~
612 ~~that an action for contribution must be commenced within the~~
613 ~~limitations provided in s. 768.31(4), and an action for damages~~
614 ~~arising from medical malpractice or wrongful death must be~~
615 ~~commenced within the limitations for such actions in s.~~
616 ~~95.11(5).~~

617 (15) An ~~No~~ action may not be brought against the state or
618 any of its agencies or subdivisions by anyone who unlawfully
619 participates in a riot, unlawful assembly, public demonstration,
620 mob violence, or civil disobedience if the claim arises out of
621 ~~the such riot, unlawful assembly, public demonstration, mob~~
622 ~~violence, or civil disobedience. Nothing in This subsection does~~
623 ~~not act shall~~ abridge traditional immunities pertaining to
624 statements made in court.

625 (16) (a) The state and its agencies and subdivisions are
626 authorized to be self-insured, to enter into risk management
627 programs, or to purchase liability insurance for whatever
628 coverage they may choose, or to have any combination thereof, in
629 anticipation of any claim, judgment, and claims bill ~~that which~~
630 they may be liable to pay pursuant to this section. Agencies or
631 subdivisions, and sheriffs, that are subject to homogeneous
632 risks may purchase insurance jointly or may join together as
633 self-insurers to provide other means of protection against tort
634 claims, any charter provisions or laws to the contrary
635 notwithstanding.

636 (b) Claims files maintained by any risk management program
637 administered by the state, its agencies, and its subdivisions
638 are confidential and exempt from the provisions of s. 119.07(1)

10-01036B-26

20261366

639 and s. 24(a), Art. I of the State Constitution until termination
640 of all litigation and settlement of all claims arising out of
641 the same incident, although portions of the claims files may
642 remain exempt, as otherwise provided by law. Claims files
643 records may be released to other governmental agencies upon
644 written request and demonstration of need. Any; ~~such~~ records
645 held by the receiving agency remain confidential and exempt as
646 provided ~~for~~ in this paragraph.

647 (c) Portions of meetings and proceedings conducted pursuant
648 to any risk management program administered by the state, its
649 agencies, or its subdivisions, which relate solely to the
650 evaluation of claims filed with the risk management program or
651 which relate solely to offers of compromise of claims filed with
652 the risk management program are exempt from the provisions of s.
653 286.011 and s. 24(b), Art. I of the State Constitution. Until
654 termination of all litigation and settlement of all claims
655 arising out of the same incident, persons privy to discussions
656 pertinent to the evaluation of a filed claim are ~~shall not be~~
657 subject to subpoena in any administrative or civil proceeding
658 with regard to the content of those discussions.

659 (d) Minutes of the meetings and proceedings of any risk
660 management program administered by the state, its agencies, or
661 its subdivisions, which relate solely to the evaluation of
662 claims filed with the risk management program or which relate
663 solely to offers of compromise of claims filed with the risk
664 management program are exempt from ~~the provisions of s.~~
665 119.07(1) and s. 24(a), Art. I of the State Constitution until
666 termination of all litigation and settlement of all claims
667 arising out of the same incident.

10-01036B-26

20261366

668 (17) ~~This section, as amended by chapter 81-317, Laws of~~
669 ~~Florida, shall apply only to causes of actions which accrue on~~
670 ~~or after October 1, 1981.~~

671 (18) A ~~No~~ provision of this section, or of any other
672 section of the Florida Statutes, whether read separately or in
673 conjunction with any other provision, may not ~~shall~~ be construed
674 to waive the immunity of the state or any of its agencies from
675 suit in federal court, as that ~~such~~ immunity is guaranteed by
676 the Eleventh Amendment to the Constitution of the United States,
677 unless the ~~such~~ waiver is explicitly and definitely stated to be
678 a waiver of the immunity of the state and its agencies from suit
679 in federal court. This subsection may ~~shall~~ not be construed to
680 mean that the state has at any time previously waived, by
681 implication, its immunity, or that of any of its agencies, from
682 suit in federal court through any statute in existence before
683 ~~prior to~~ June 24, 1984.

684 (18) ~~(19) Neither~~ The state or ~~an~~ nor ~~any~~ agency or
685 subdivision of the state does not ~~waives~~ waives any defense of
686 sovereign immunity, or increase ~~increases~~ the limits of its
687 liability, upon entering into a contract ~~contractual~~
688 ~~relationship~~ with another agency or subdivision of the state.
689 The ~~Such~~ a contract may ~~must~~ not contain any provision that
690 requires one party to indemnify or insure the other party for
691 the other party's negligence or to assume any liability for the
692 other party's negligence. This does not preclude a party from
693 requiring a nongovernmental entity to provide ~~such~~
694 indemnification or insurance. The restrictions of this
695 subsection do not prohibit ~~prevent~~ a regional water supply
696 authority from indemnifying and assuming the liabilities of its

10-01036B-26

20261366

697 member governments for obligations arising from past acts or
698 omissions at or with property acquired from a member government
699 by the authority and arising from the acts or omissions of the
700 authority in performing activities contemplated by an interlocal
701 agreement. The ~~Such~~ indemnification may not be considered to
702 increase or otherwise waive the limits of liability to third-
703 party claimants established by this section.

704 (19) ~~(20)~~ Every municipality, and any of its agencies ~~agency~~
705 ~~thereof, may is authorized to undertake to~~ indemnify those
706 employees who ~~that~~ are exposed to personal liability pursuant to
707 the Clean Air Act Amendments of 1990, 42 U.S.C.A. ss. 7401 et
708 seq., and all rules and regulations adopted to implement that
709 act, for acts performed within the course and scope of their
710 employment with the municipality or its agency, including, but
711 not limited to, indemnification pertaining to the holding,
712 transfer, or disposition of allowances allocated to the
713 municipality's or its agency's electric generating units, and
714 the monitoring, submission, certification, and compliance with
715 permits, permit applications, records, compliance plans, and
716 reports for those units, when those ~~such~~ acts are performed
717 within the course and scope of their employment with the
718 municipality or its agency. The authority to indemnify under
719 this section covers every act by an employee which is ~~when such~~
720 ~~act~~ is performed within the course and scope of her or his
721 employment with the municipality or its agency, but does not
722 cover any act of willful misconduct or any intentional or
723 knowing violation of any law by the employee. The authority to
724 indemnify under this section includes, but is not limited to,
725 the authority to pay any fine and provide legal representation

10-01036B-26

20261366

726 in any action.

727 Section 2. This act applies to causes of action that accrue
728 on or after October 1, 2026.729 Section 3. Paragraph (b) of subsection (2) of section
730 29.0081, Florida Statutes, is amended to read:

731 29.0081 County funding of additional court personnel.—

732 (2) The agreement shall, at a minimum, provide that:

733 (b) The personnel whose employment is funded under the
734 agreement are hired, supervised, managed, and fired by personnel
735 of the judicial circuit. The county shall be considered the
736 employer for purposes of s. 440.10 and chapter 443. Employees
737 funded by the county under this section and other county
738 employees may be aggregated for purposes of a flexible benefits
739 plan pursuant to s. 125 of the Internal Revenue Code of 1986.740 The judicial circuit shall supervise the personnel whose
741 employment is funded under the agreement; be responsible for
742 compliance with all requirements of federal and state employment
743 laws, including, but not limited to, Title VII of the Civil
744 Rights Act of 1964, Title I of the Americans with Disabilities
745 Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair
746 Labor Standards Act, chapters 447 and 760, and ss. 112.3187,
747 440.105, and 440.205; and fully indemnify the county from any
748 liability under such laws, as authorized by s. 768.28(18) s.
749 768.28(19), to the extent such liability is the result of the
750 acts or omissions of the judicial circuit or its agents or
751 employees.752 Section 4. Paragraph (b) of subsection (2) of section
753 39.8297, Florida Statutes, is amended to read:

754 39.8297 County funding for guardian ad litem employees.—

10-01036B-26

20261366

755 (2) The agreement, at a minimum, must provide that:
756 (b) The persons who are employed will be hired, supervised,
757 managed, and terminated by the executive director of the
758 Statewide Guardian ad Litem Office. The statewide office is
759 responsible for compliance with all requirements of federal and
760 state employment laws, and shall fully indemnify the county from
761 any liability under such laws, as authorized by s. 768.28(18) ~~s.~~
762 ~~768.28(19)~~, to the extent such liability is the result of the
763 acts or omissions of the Statewide Guardian ad Litem Office or
764 its agents or employees.

765 Section 5. Paragraph (a) of subsection (3) of section
766 343.811, Florida Statutes, is amended to read:

343.811 Power to assume indemnification and insurance obligations.—

769 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In
770 conjunction with the development or operation of a commuter rail
771 service on the Coastal Link corridor, an agency may:

772 (a) Assume obligations pursuant to the following:

773 1.a. The agency may assume the obligation by contract to
774 protect, defend, indemnify, and hold harmless FECR and its
775 officers, agents, and employees from and against:

776 (I) Any liability, cost, and expense, including, but not
777 limited to, the agency's passengers and other rail corridor
778 invitees in, on, or about the Coastal Link corridor, regardless
779 of whether the loss, damage, destruction, injury, or death
780 giving rise to any such liability, cost, or expense is caused in
781 whole or in part, and to whatever nature or degree, by the
782 fault, failure, negligence, misconduct, nonfeasance, or
783 misfeasance of such freight rail operator, its successors, or

10-01036B-26

20261366

784 its officers, agents, and employees, or any other person or
785 persons whomsoever.

786 (II) Any loss, injury, or damage incurred by other rail
787 corridor invitees up to the amount of the self-insurance
788 retention amount with respect to limited covered accidents
789 caused by the agency.

790 b. The agency may assume the obligation by contract to
791 protect, defend, indemnify, and hold harmless Brightline and its
792 officers, agents, and employees from and against:

793 (I) Any liability, cost, and expense, including, but not
794 limited to, the agency's passengers and rail corridor invitees
795 in the Coastal Link corridor, regardless of whether the loss,
796 damage, destruction, injury, or death giving rise to any such
797 liability, cost, or expense is caused in whole or in part, and
798 to whatever nature or degree, by the fault, failure, negligence,
799 misconduct, nonfeasance, or misfeasance of Brightline, its
800 successors, or its officers, agents, and employees, or any other
801 person or persons whomsoever.

802 (II) Any loss, injury, or damage incurred by other rail
803 corridor invitees up to the amount of the self-insurance
804 retention amount with respect to limited covered accidents
805 caused by the agency.

806 2. The assumption of liability of the agency by contract
807 pursuant to sub subparagraph 1.a. or sub subparagraph 1.b. may
808 not in any instance exceed the following parameters of
809 allocation of risk:

810 a. The agency may be solely responsible for any loss,
811 injury, or damage to the agency's passengers, or rail corridor
812 invitees, third parties, or trespassers, regardless of

10-01036B-26

20261366

813 circumstances or cause, subject to sub subparagraph b. and
814 subparagraphs 3., 4., and 5.

815 b.(I) In the event of a limited covered accident caused by
816 FECR, the authority of an agency to protect, defend, and
817 indemnify FECR for all liability, cost, and expense, including
818 punitive or exemplary damages, in excess of the self-insurance
819 retention amount exists only if FECR agrees, with respect to
820 such limited covered accident caused by FECR, to protect,
821 defend, and indemnify the agency for the amount of the self-
822 insurance retention amount.

823 (II) In the event of a limited covered accident caused by
824 Brightline, the authority of an agency to protect, defend, and
825 indemnify Brightline for all liability, cost, and expense,
826 including punitive or exemplary damages, in excess of the self-
827 insurance retention amount exists only if Brightline agrees,
828 with respect to such limited covered accident, to protect,
829 defend, and indemnify the agency for the amount of the self-
830 insurance retention amount.

831 3. When only one train is involved in an incident and:
832 a. The train is an agency's train, including an incident
833 with trespassers or at-grade crossings, the agency may be solely
834 responsible for any loss, injury, or damage.

835 b. The train is FECR's train, including an incident with
836 trespassers or at-grade crossings, FECR is solely responsible
837 for any loss, injury, or damage, except for the agency's
838 passengers and other rail corridor invitees, which are the
839 responsibility of the agency, and Brightline's passengers and
840 other rail corridor invitees, which are the responsibility of
841 Brightline.

10-01036B-26

20261366

842 c. The train is Brightline's train, including an incident
843 with trespassers or at-grade crossings, Brightline is solely
844 responsible for any loss, injury, or damage, except for the
845 agency's passengers or rail corridor invitees, which are the
846 responsibility of the agency, and FECR's rail corridor invitees,
847 which are the responsibility of FECR.

848 4. When an incident involves more than one operator, each
849 operator is responsible for:

850 a. Its property; passengers; employees, excluding employees
851 who are, at the time of the incident, rail corridor invitees of
852 another operator; and other rail corridor invitees.

853 b. Its proportionate share of any loss or damage to the
854 joint infrastructure.

855 c. Its proportionate share of any loss, injury, or damage
856 to:

857 (I) Rail corridor invitees who are not rail corridor
858 invitees of operators, provided that the agency shall always be
859 responsible for its passengers and its rail corridor invitees
860 regardless of whether the agency was involved in the incident.

861 (II) Trespassers or third parties outside the Coastal Link
862 corridor as a result of the incident.

863 5. Any such contractual duty to protect, defend, indemnify,
864 and hold harmless FECR or Brightline with respect to claims by
865 rail passengers shall expressly include a specific cap on the
866 amount of the contractual duty, which amount may not exceed \$323
867 million per occurrence and shall be adjusted so that the per-
868 occurrence insurance requirement is equal to the aggregate
869 allowable awards to all rail passengers, against all defendants,
870 for all claims, including claims for punitive damages, arising

10-01036B-26

20261366

871 from a single accident or incident in accordance with 49 U.S.C.
872 s. 28103, or any successor provision, without prior legislative
873 approval.

874 6. Notwithstanding any provision of this section to the
875 contrary, the liabilities of the agency to the state or any
876 other agency shall be as set forth in an agreement among such
877 entities and limited by s. 768.28(18) ~~s. 768.28(19)~~.

878
879 Neither the assumption by contract to protect, defend,
880 indemnify, and hold harmless; the purchase of insurance; nor the
881 establishment of a self-insurance retention fund shall be deemed
882 to be a waiver of any defense of sovereign immunity for tort
883 claims or deemed to increase the limits of the agency's
884 liability for tort claims as provided in s. 768.28.

885 Section 6. Subsection (2) of section 944.713, Florida
886 Statutes, is amended to read:

887 944.713 Insurance against liability.—

888 (2) The contract shall provide for indemnification of the
889 state by the private vendor for any liabilities incurred up to
890 the limits provided under s. 768.28(5). The contract shall
891 provide that the private vendor, or the insurer of the private
892 vendor, is liable to pay any claim or judgment for any one
893 person which does not exceed the applicable maximum amount
894 ~~provided in s. 768.28(5) sum of \$100,000 or any claim or~~
895 ~~judgment, or portions thereof, which, when totaled with all~~
896 ~~other claims or judgments arising out of the same incident or~~
897 ~~occurrence, does not exceed the sum of \$200,000.~~ In addition,
898 the contractor must agree to defend, hold harmless, and
899 indemnify the department against any and all actions, claims,

10-01036B-26

20261366

900 damages and losses, including costs and attorney's fees.

901 Section 7. For the purpose of incorporating the amendment
902 made by this act to section 768.28, Florida Statutes, in a
903 reference thereto, subsection (5) of section 45.061, Florida
904 Statutes, is reenacted to read:

905 45.061 Offers of settlement.—

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

911 Section 8. For the purpose of incorporating the amendment
912 made by this act to section 768.28, Florida Statutes, in a
913 reference thereto, paragraph (f) of subsection (6) of section
914 95.11, Florida Statutes, is reenacted to read:

915 95.11 Limitations other than for the recovery of real
916 property.—Actions other than for recovery of real property shall
917 be commenced as follows:

918 (6) WITHIN ONE YEAR.—

919 (f) Except for actions described in subsection (9), or a
920 petition challenging a criminal conviction, all petitions;
921 extraordinary writs; tort actions, including those under s.
922 768.28(14); or other actions which concern any condition of
923 confinement of a prisoner filed by or on behalf of a prisoner as
924 defined in s. 57.085. Any petition, writ, or action brought
925 under this paragraph must be commenced within 1 year after the
926 time the incident, conduct, or conditions occurred or within 1
927 year after the time the incident, conduct, or conditions were
928 discovered, or should have been discovered.

10-01036B-26

20261366

929 Section 9. For the purpose of incorporating the amendment
930 made by this act to section 768.28, Florida Statutes, in a
931 reference thereto, subsection (4) of section 110.504, Florida
932 Statutes, is reenacted to read:

933 110.504 Volunteer benefits.—

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

937 Section 10. For the purpose of incorporating the amendment
938 made by this act to section 768.28, Florida Statutes, in a
939 reference thereto, paragraph (a) of subsection (1) of section
940 111.071, Florida Statutes, is reenacted to read:

941 111.071 Payment of judgments or settlements against certain
942 public officers or employees.—

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

947 (a) Any final judgment, including damages, costs, and
948 attorney's fees, arising from a complaint for damages or injury
949 suffered as a result of any act or omission of action of any
950 officer, employee, or agent in a civil or civil rights lawsuit
951 described in s. 111.07. If the civil action arises under s.
952 768.28 as a tort claim, the limitations and provisions of s.
953 768.28 governing payment shall apply. If the action is a civil
954 rights action arising under 42 U.S.C. s. 1983, or similar
955 federal statutes, payments for the full amount of the judgment
956 may be made unless the officer, employee, or agent has been
957 determined in the final judgment to have caused the harm

10-01036B-26

20261366

958 intentionally.

959 Section 11. For the purpose of incorporating the amendment
960 made by this act to section 768.28, Florida Statutes, in a
961 reference thereto, paragraph (b) of subsection (2) of section
962 125.01015, Florida Statutes, is reenacted to read:

963 125.01015 Office of the sheriff.—

964 (2) To ensure the successful transfer of the exclusive
965 policing responsibility and authority to the sheriff in a
966 county, as defined in s. 125.011(1), the board of county
967 commissioners shall:

968 (b) After the election of the sheriff is certified:

969 1. Provide funding for all of the necessary staff and
970 office space for the sheriff-elect to establish an independent
971 office of the sheriff, so that the office may effectively
972 operate and perform all of the functions required by general law
973 when the sheriff-elect takes office.

974 2. Provide funding for the sheriff-elect to select any
975 necessary insurances not provided by the county through the
976 interlocal agreement required under sub-subparagraph 6.d. to
977 allow the sheriff to effectively operate and perform all of the
978 functions required by general law when he or she takes office.

979 3. Provide funding for the sheriff-elect to establish bank
980 and other accounts, as necessary, in his or her official
981 capacity as sheriff, so that such accounts become operational
982 when he or she takes office.

983 4. Unless otherwise transferable based on existing surety
984 bonds for the sheriff's deputies, provide funding for and
985 facilitate procurement of the required surety bonds for deputy
986 sheriffs pursuant to s. 30.09, so that such bonds are in place

10-01036B-26

20261366

987 when the sheriff-elect takes office.

988 5. Prepare and deliver to the office of the sheriff all
989 documents, property, and other items listed in subsection (4).

990 6. Notwithstanding any provision to the contrary, for a
991 term commencing on January 7, 2025, and ending on or after
992 September 30, 2028, provide the sheriff-elect taking office
993 with, and require the sheriff-elect taking office to use, not
994 less than the substantially and materially same support
995 services, facilities, office space, and information technology
996 infrastructure provided to county offices or departments
997 performing the duties to be performed by the sheriff-elect upon
998 taking office in the 1-year period before he or she takes
999 office.

1000 a. As used in this subparagraph, the term "support
1001 services" includes:

1002 (I) Property and facilities, and the management and
1003 maintenance for such property and facilities.

1004 (II) Communications infrastructure, including telephone and
1005 Internet connectivity.

1006 (III) Risk management, including processing, adjusting, and
1007 payment of all claims and demands, including those made under s.
1008 768.28. The county shall provide the sheriff with all required
1009 general liability, property, and other insurance coverage
1010 through its self-insurance program, a self-insurance risk pool,
1011 or commercial insurance. If the county provides insurance
1012 through a self-insurance program, the county must also provide
1013 the sheriff with commercial stop-loss coverage in an amount and
1014 with a self-insured retention agreed upon by the sheriff and the
1015 county.

10-01036B-26

20261366

1016 (IV) Legal representation and advice through the office of
1017 the county attorney for all claims, demands, and causes of
1018 action brought against the sheriff, his or her deputies, or
1019 other personnel in their official and individual capacities,
1020 while acting in their official and individual capacities,
1021 including any required outside counsel due to conflicts of
1022 interest. This sub-sub-subparagraph does not prohibit the
1023 sheriff from employing or retaining his or her own legal
1024 representation as he or she deems necessary.

1025 (V) Purchasing and procurement services using procedures
1026 under the laws and ordinances applicable to the county for
1027 purchases requiring competitive procurement.

1028 (VI) Budget and fiscal software and budget development
1029 services.

(VII) Human resource services, including, but not limited to, facilitation of the hiring process, including employee applicant screening and employee applicant background checks, and employee benefit administration. The county may provide human resource services to the sheriff. However, the sheriff is the employer of his or her employees, and the sheriff retains full and complete control and authority over the hiring of his or her employees and the terms and conditions of employment, including employee discipline and termination of employment. The provision of human resource services by the county to the sheriff does not create a joint-employer relationship. The sheriff's employees shall remain members of the county's health insurance and workers' compensation plans for at least the term set forth in this subparagraph.

1044 (VIII) Fleet management, including procurement of all

10-01036B-26

20261366

1045 vehicles and other mobile assets such as boats and aircraft, and
1046 all vehicle repair and maintenance.

1047 b. As used in this subparagraph, the term "information
1048 technology infrastructure" includes:

1049 (I) All hardware, including computers.

1050 (II) Budget and fiscal software, including payroll and
1051 purchasing software.

1052 (III) Computer-aided dispatch.

1053 c. Under a cost allocation plan agreed to by the county and
1054 the sheriff, the sheriff shall pay the county for such support
1055 services and information technology infrastructure from his or
1056 her general fund budget, except for any support services and
1057 information technology infrastructure costs that general law
1058 otherwise and expressly requires the county to fund outside the
1059 sheriff's budget.

1060 d. To satisfy compliance with this subsection and to
1061 establish the office of the sheriff in a manner that minimizes
1062 unnecessary financial expenditures, the county and the sheriff
1063 shall execute an interlocal agreement addressing the
1064 requirements of this subsection and other expenditures,
1065 including an appropriate phase-in period for identification of
1066 the sheriff's assets with the sheriff's markings to minimize the
1067 cost to taxpayers. The interlocal agreement shall have a term
1068 that ends no earlier than September 30, 2028, and may be
1069 amended, renewed, extended, or newly adopted at any time
1070 following the expiration or termination of the agreement. After
1071 the initial period ending no earlier than September 30, 2028, an
1072 interlocal agreement may be entered into between the county and
1073 the sheriff which provides for the same or different

10-01036B-26

20261366

1074 requirements as set forth in this subsection.

1075 Section 12. For the purpose of incorporating the amendment
1076 made by this act to section 768.28, Florida Statutes, in
1077 references thereto, paragraph (h) of subsection (3) and
1078 paragraph (k) of subsection (15) of section 163.01, Florida
1079 Statutes, are reenacted to read:

1080 163.01 Florida Interlocal Cooperation Act of 1969.—

1081 (3) As used in this section:

1082 (h) "Local government liability pool" means a reciprocal
1083 insurer as defined in s. 629.011 or any self-insurance program
1084 created pursuant to s. 768.28(16), formed and controlled by
1085 counties or municipalities of this state to provide liability
1086 insurance coverage for counties, municipalities, or other public
1087 agencies of this state, which pool may contract with other
1088 parties for the purpose of providing claims administration,
1089 processing, accounting, and other administrative facilities.

1090 (15) Notwithstanding any other provision of this section or
1091 of any other law except s. 361.14, any public agency of this
1092 state which is an electric utility, or any separate legal entity
1093 created pursuant to the provisions of this section, the
1094 membership of which consists only of electric utilities, and
1095 which exercises or proposes to exercise the powers granted by
1096 part II of chapter 361, the Joint Power Act, may exercise any or
1097 all of the following powers:

1098 (k) The limitations on waiver in the provisions of s.
1099 768.28 or any other law to the contrary notwithstanding, the
1100 Legislature, in accordance with s. 13, Art. X of the State
1101 Constitution, hereby declares that any such legal entity or any
1102 public agency of this state that participates in any electric

10-01036B-26

20261366

1103 project waives its sovereign immunity to:

1104 1. All other persons participating therein; and

1105 2. Any person in any manner contracting with a legal entity

1106 of which any such public agency is a member, with relation to:

1107 a. Ownership, operation, or any other activity set forth in

1108 sub subparagraph (b)2.d. with relation to any electric project;

1109 or

1110 b. The supplying or purchasing of services, output,

1111 capacity, energy, or any combination thereof.

1112 Section 13. For the purpose of incorporating the amendment

1113 made by this act to section 768.28, Florida Statutes, in a

1114 reference thereto, section 190.043, Florida Statutes, is

1115 reenacted to read:

1116 190.043 Suits against the district.—Any suit or action

1117 brought or maintained against the district for damages arising

1118 out of tort, including, without limitation, any claim arising

1119 upon account of an act causing an injury or loss of property,

1120 personal injury, or death, shall be subject to the limitations

1121 provided in s. 768.28.

1122 Section 14. For the purpose of incorporating the amendment

1123 made by this act to section 768.28, Florida Statutes, in a

1124 reference thereto, subsection (13) of section 213.015, Florida

1125 Statutes, is reenacted to read:

1126 213.015 Taxpayer rights.—There is created a Florida

1127 Taxpayer's Bill of Rights to guarantee that the rights, privacy,

1128 and property of Florida taxpayers are adequately safeguarded and

1129 protected during tax assessment, collection, and enforcement

1130 processes administered under the revenue laws of this state. The

1131 Taxpayer's Bill of Rights compiles, in one document, brief but

10-01036B-26

20261366

1132 comprehensive statements which explain, in simple, nontechnical
1133 terms, the rights and obligations of the Department of Revenue
1134 and taxpayers. Section 192.0105 provides additional rights
1135 afforded to payors of property taxes and assessments. The rights
1136 afforded taxpayers to ensure that their privacy and property are
1137 safeguarded and protected during tax assessment and collection
1138 are available only insofar as they are implemented in other
1139 parts of the Florida Statutes or rules of the Department of
1140 Revenue. The rights so guaranteed Florida taxpayers in the
1141 Florida Statutes and the departmental rules are:

1142 (13) The right to an action at law within the limitations
1143 of s. 768.28, relating to sovereign immunity, to recover damages
1144 against the state or the Department of Revenue for injury caused
1145 by the wrongful or negligent act or omission of a department
1146 officer or employee (see s. 768.28).

1147 Section 15. For the purpose of incorporating the amendment
1148 made by this act to section 768.28, Florida Statutes, in a
1149 reference thereto, section 252.51, Florida Statutes, is
1150 reenacted to read:

1151 252.51 Liability.—Any person or organization, public or
1152 private, owning or controlling real estate or other premises who
1153 voluntarily and without compensation, other than payment or
1154 reimbursement of costs and expenses, grants a license or
1155 privilege or otherwise permits the designation by the local
1156 emergency management agency or use of the whole or any part of
1157 such real estate or premises for the purpose of sheltering
1158 persons during an actual, impending, mock, or practice
1159 emergency, together with her or his successor in interest, if
1160 any, shall not be liable for the death of, or injury to, any

10-01036B-26

20261366

1161 person on or about such real estate or premises during the
1162 actual, impending, mock, or practice emergency, or for loss of,
1163 or damage to, the property of such person, solely by reason or
1164 as a result of such license, privilege, designation, or use,
1165 unless the gross negligence or the willful and wanton misconduct
1166 of such person owning or controlling such real estate or
1167 premises or her or his successor in interest is the proximate
1168 cause of such death, injury, loss, or damage occurring during
1169 such sheltering period. Any such person or organization who
1170 provides such shelter space for compensation shall be deemed to
1171 be an instrumentality of the state or its applicable agency or
1172 subdivision for the purposes of s. 768.28.

1173 Section 16. For the purpose of incorporating the amendment
1174 made by this act to section 768.28, Florida Statutes, in a
1175 reference thereto, section 252.89, Florida Statutes, is
1176 reenacted to read:

1177 252.89 Tort liability.—The commission and the committees
1178 shall be state agencies, and the members of the commission and
1179 committees shall be officers, employees, or agents of the state
1180 for the purposes of s. 768.28.

1181 Section 17. For the purpose of incorporating the amendment
1182 made by this act to section 768.28, Florida Statutes, in a
1183 reference thereto, section 252.944, Florida Statutes, is
1184 reenacted to read:

1185 252.944 Tort liability.—The commission and the committees
1186 are state agencies, and the members of the commission and
1187 committees are officers, employees, or agents of the state for
1188 the purpose of s. 768.28.

1189 Section 18. For the purpose of incorporating the amendment

10-01036B-26

20261366

1190 made by this act to section 768.28, Florida Statutes, in a
1191 reference thereto, subsection (2) of section 260.0125, Florida
1192 Statutes, is reenacted to read:

1193 260.0125 Limitation on liability of private landowners
1194 whose property is designated as part of the statewide system of
1195 greenways and trails.—

1196 (2) Any private landowner who consents to designation of
1197 his or her land as part of the statewide system of greenways and
1198 trails pursuant to s. 260.016(2)(d) without compensation shall
1199 be considered a volunteer, as defined in s. 110.501, and shall
1200 be covered by state liability protection pursuant to s. 768.28,
1201 including s. 768.28(9).

1202 Section 19. For the purpose of incorporating the amendment
1203 made by this act to section 768.28, Florida Statutes, in a
1204 reference thereto, section 284.31, Florida Statutes, is
1205 reenacted to read:

1206 284.31 Scope and types of coverages; separate accounts.—The
1207 Insurance Risk Management Trust Fund must, unless specifically
1208 excluded by the Department of Financial Services, cover all
1209 departments of the State of Florida and their employees, agents,
1210 and volunteers and must provide separate accounts for workers'
1211 compensation, general liability, fleet automotive liability,
1212 federal civil rights actions under 42 U.S.C. s. 1983 or similar
1213 federal statutes, state agency firefighter cancer benefits
1214 payable under s. 112.1816(2), and court-awarded attorney fees in
1215 other proceedings against the state except for such awards in
1216 eminent domain or for inverse condemnation or for awards by the
1217 Public Employees Relations Commission. Unless specifically
1218 excluded by the Department of Financial Services, the Insurance

10-01036B-26

20261366

1219 Risk Management Trust Fund must provide fleet automotive
1220 liability coverage to motor vehicles titled to the state, or to
1221 any department of the state, when such motor vehicles are used
1222 by community transportation coordinators performing, under
1223 contract to the appropriate department of the state, services
1224 for the transportation disadvantaged under part I of chapter
1225 427. Such fleet automotive liability coverage is primary and is
1226 subject to s. 768.28 and parts II and III of chapter 284, and
1227 applicable rules adopted thereunder, and the terms and
1228 conditions of the certificate of coverage issued by the
1229 Department of Financial Services.

1230 Section 20. For the purpose of incorporating the amendment
1231 made by this act to section 768.28, Florida Statutes, in
1232 references thereto, section 284.38, Florida Statutes, is
1233 reenacted to read:

1234 284.38 Waiver of sovereign immunity; effect.—The insurance
1235 programs developed herein shall provide limits as established by
1236 the provisions of s. 768.28 if a tort claim. The limits provided
1237 in s. 768.28 shall not apply to a civil rights action arising
1238 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a
1239 pending or future claim or judgment arising under any of said
1240 statutes may be made upon this act becoming a law, unless the
1241 officer, employee, or agent has been determined in the final
1242 judgment to have caused the harm intentionally; however, the
1243 fund is authorized to pay all other court-ordered attorney's
1244 fees as provided under s. 284.31.

1245 Section 21. For the purpose of incorporating the amendment
1246 made by this act to section 768.28, Florida Statutes, in a
1247 reference thereto, paragraph (b) of subsection (1) of section

10-01036B-26

20261366

1248 322.13, Florida Statutes, is reenacted to read:

1249 322.13 Driver license examiners.—

1250 (1)

1251 (b) Those persons serving as driver license examiners are
1252 not liable for actions taken within the scope of their
1253 employment or designation, except as provided by s. 768.28.

1254 Section 22. For the purpose of incorporating the amendment
1255 made by this act to section 768.28, Florida Statutes, in a
1256 reference thereto, subsection (1) of section 337.19, Florida
1257 Statutes, is reenacted to read:

1258 337.19 Suits by and against department; limitation of
1259 actions; forum.—

1260 (1) Suits at law and in equity may be brought and
1261 maintained by and against the department on any contract claim
1262 arising from breach of an express provision or an implied
1263 covenant of a written agreement or a written directive issued by
1264 the department pursuant to the written agreement. In any such
1265 suit, the department and the contractor shall have all of the
1266 same rights and obligations as a private person under a like
1267 contract except that no liability may be based on an oral
1268 modification of either the written contract or written
1269 directive. Nothing herein shall be construed to waive the
1270 sovereign immunity of the state and its political subdivisions
1271 from equitable claims and equitable remedies. Notwithstanding
1272 anything to the contrary contained in this section, no employee
1273 or agent of the department may be held personally liable to an
1274 extent greater than that pursuant to s. 768.28 provided that no
1275 suit sounding in tort shall be maintained against the
1276 department.

10-01036B-26

20261366

1277 Section 23. For the purpose of incorporating the amendment
1278 made by this act to section 768.28, Florida Statutes, in a
1279 reference thereto, subsection (17) of section 341.302, Florida
1280 Statutes, is reenacted to read:

1281 341.302 Rail program; duties and responsibilities of the
1282 department.—The department, in conjunction with other
1283 governmental entities, including the rail enterprise and the
1284 private sector, shall develop and implement a rail program of
1285 statewide application designed to ensure the proper maintenance,
1286 safety, revitalization, and expansion of the rail system to
1287 assure its continued and increased availability to respond to
1288 statewide mobility needs. Within the resources provided pursuant
1289 to chapter 216, and as authorized under federal law, the
1290 department shall:

1291 (17) In conjunction with the acquisition, ownership,
1292 construction, operation, maintenance, and management of a rail
1293 corridor, have the authority to:

1294 (a) Assume obligations pursuant to the following:

1295 1.a. The department may assume the obligation by contract
1296 to forever protect, defend, indemnify, and hold harmless the
1297 freight rail operator, or its successors, from whom the
1298 department has acquired a real property interest in the rail
1299 corridor, and that freight rail operator's officers, agents, and
1300 employees, from and against any liability, cost, and expense,
1301 including, but not limited to, commuter rail passengers and rail
1302 corridor invitees in the rail corridor, regardless of whether
1303 the loss, damage, destruction, injury, or death giving rise to
1304 any such liability, cost, or expense is caused in whole or in
1305 part, and to whatever nature or degree, by the fault, failure,

10-01036B-26

20261366

1306 negligence, misconduct, nonfeasance, or misfeasance of such
1307 freight rail operator, its successors, or its officers, agents,
1308 and employees, or any other person or persons whomsoever; or
1309 b. The department may assume the obligation by contract to
1310 forever protect, defend, indemnify, and hold harmless National
1311 Railroad Passenger Corporation, or its successors, and officers,
1312 agents, and employees of National Railroad Passenger
1313 Corporation, from and against any liability, cost, and expense,
1314 including, but not limited to, commuter rail passengers and rail
1315 corridor invitees in the rail corridor, regardless of whether
1316 the loss, damage, destruction, injury, or death giving rise to
1317 any such liability, cost, or expense is caused in whole or in
1318 part, and to whatever nature or degree, by the fault, failure,
1319 negligence, misconduct, nonfeasance, or misfeasance of National
1320 Railroad Passenger Corporation, its successors, or its officers,
1321 agents, and employees, or any other person or persons
1322 whomsoever.

1323 2. The assumption of liability of the department by
1324 contract pursuant to sub subparagraph 1.a. or sub subparagraph
1325 1.b. may not in any instance exceed the following parameters of
1326 allocation of risk:

1327 a. The department may be solely responsible for any loss,
1328 injury, or damage to commuter rail passengers, or rail corridor
1329 invitees, or trespassers, regardless of circumstances or cause,
1330 subject to sub subparagraph b. and subparagraphs 3., 4., 5., and
1331 6.

1332 b. (I) In the event of a limited covered accident, the
1333 authority of the department to protect, defend, and indemnify
1334 the freight operator for all liability, cost, and expense,

10-01036B-26

20261366

1335 including punitive or exemplary damages, in excess of the
1336 deductible or self-insurance retention fund established under
1337 paragraph (b) and actually in force at the time of the limited
1338 covered accident exists only if the freight operator agrees,
1339 with respect to the limited covered accident, to protect,
1340 defend, and indemnify the department for the amount of the
1341 deductible or self-insurance retention fund established under
1342 paragraph (b) and actually in force at the time of the limited
1343 covered accident.

1344 (II) In the event of a limited covered accident, the
1345 authority of the department to protect, defend, and indemnify
1346 National Railroad Passenger Corporation for all liability, cost,
1347 and expense, including punitive or exemplary damages, in excess
1348 of the deductible or self-insurance retention fund established
1349 under paragraph (b) and actually in force at the time of the
1350 limited covered accident exists only if National Railroad
1351 Passenger Corporation agrees, with respect to the limited
1352 covered accident, to protect, defend, and indemnify the
1353 department for the amount of the deductible or self-insurance
1354 retention fund established under paragraph (b) and actually in
1355 force at the time of the limited covered accident.

1356 3. When only one train is involved in an incident, the
1357 department may be solely responsible for any loss, injury, or
1358 damage if the train is a department train or other train
1359 pursuant to subparagraph 4., but only if:

1360 a. When an incident occurs with only a freight train
1361 involved, including incidents with trespassers or at grade
1362 crossings, the freight rail operator is solely responsible for
1363 any loss, injury, or damage, except for commuter rail passengers

10-01036B-26

20261366

1364 and rail corridor invitees; or

1365 b. When an incident occurs with only a National Railroad
1366 Passenger Corporation train involved, including incidents with
1367 trespassers or at grade crossings, National Railroad Passenger
1368 Corporation is solely responsible for any loss, injury, or
1369 damage, except for commuter rail passengers and rail corridor
1370 invitees.

1371 4. For the purposes of this subsection:

1372 a. Any train involved in an incident that is neither the
1373 department's train nor the freight rail operator's train,
1374 hereinafter referred to in this subsection as an "other train,"
1375 may be treated as a department train, solely for purposes of any
1376 allocation of liability between the department and the freight
1377 rail operator only, but only if the department and the freight
1378 rail operator share responsibility equally as to third parties
1379 outside the rail corridor who incur loss, injury, or damage as a
1380 result of any incident involving both a department train and a
1381 freight rail operator train, and the allocation as between the
1382 department and the freight rail operator, regardless of whether
1383 the other train is treated as a department train, shall remain
1384 one-half each as to third parties outside the rail corridor who
1385 incur loss, injury, or damage as a result of the incident. The
1386 involvement of any other train shall not alter the sharing of
1387 equal responsibility as to third parties outside the rail
1388 corridor who incur loss, injury, or damage as a result of the
1389 incident; or

1390 b. Any train involved in an incident that is neither the
1391 department's train nor the National Railroad Passenger
1392 Corporation's train, hereinafter referred to in this subsection

10-01036B-26

20261366

1393 as an "other train," may be treated as a department train,
1394 solely for purposes of any allocation of liability between the
1395 department and National Railroad Passenger Corporation only, but
1396 only if the department and National Railroad Passenger
1397 Corporation share responsibility equally as to third parties
1398 outside the rail corridor who incur loss, injury, or damage as a
1399 result of any incident involving both a department train and a
1400 National Railroad Passenger Corporation train, and the
1401 allocation as between the department and National Railroad
1402 Passenger Corporation, regardless of whether the other train is
1403 treated as a department train, shall remain one-half each as to
1404 third parties outside the rail corridor who incur loss, injury,
1405 or damage as a result of the incident. The involvement of any
1406 other train shall not alter the sharing of equal responsibility
1407 as to third parties outside the rail corridor who incur loss,
1408 injury, or damage as a result of the incident.

1409 5. When more than one train is involved in an incident:

1410 a.(I) If only a department train and freight rail
1411 operator's train, or only an other train as described in sub-
1412 subparagraph 4.a. and a freight rail operator's train, are
1413 involved in an incident, the department may be responsible for
1414 its property and all of its people, all commuter rail
1415 passengers, and rail corridor invitees, but only if the freight
1416 rail operator is responsible for its property and all of its
1417 people, and the department and the freight rail operator each
1418 share one-half responsibility as to trespassers or third parties
1419 outside the rail corridor who incur loss, injury, or damage as a
1420 result of the incident; or

1421 (II) If only a department train and a National Railroad

10-01036B-26

20261366

1422 Passenger Corporation train, or only an other train as described
1423 in sub-subparagraph 4.b. and a National Railroad Passenger
1424 Corporation train, are involved in an incident, the department
1425 may be responsible for its property and all of its people, all
1426 commuter rail passengers, and rail corridor invitees, but only
1427 if National Railroad Passenger Corporation is responsible for
1428 its property and all of its people, all National Railroad
1429 Passenger Corporation's rail passengers, and the department and
1430 National Railroad Passenger Corporation each share one-half
1431 responsibility as to trespassers or third parties outside the
1432 rail corridor who incur loss, injury, or damage as a result of
1433 the incident.

1434 b.(I) If a department train, a freight rail operator train,
1435 and any other train are involved in an incident, the allocation
1436 of liability between the department and the freight rail
1437 operator, regardless of whether the other train is treated as a
1438 department train, shall remain one-half each as to third parties
1439 outside the rail corridor who incur loss, injury, or damage as a
1440 result of the incident; the involvement of any other train shall
1441 not alter the sharing of equal responsibility as to third
1442 parties outside the rail corridor who incur loss, injury, or
1443 damage as a result of the incident; and, if the owner, operator,
1444 or insurer of the other train makes any payment to injured third
1445 parties outside the rail corridor who incur loss, injury, or
1446 damage as a result of the incident, the allocation of credit
1447 between the department and the freight rail operator as to such
1448 payment shall not in any case reduce the freight rail operator's
1449 third-party-sharing allocation of one-half under this paragraph
1450 to less than one-third of the total third party liability; or

10-01036B-26

20261366

1451 (II) If a department train, a National Railroad Passenger
1452 Corporation train, and any other train are involved in an
1453 incident, the allocation of liability between the department and
1454 National Railroad Passenger Corporation, regardless of whether
1455 the other train is treated as a department train, shall remain
1456 one-half each as to third parties outside the rail corridor who
1457 incur loss, injury, or damage as a result of the incident; the
1458 involvement of any other train shall not alter the sharing of
1459 equal responsibility as to third parties outside the rail
1460 corridor who incur loss, injury, or damage as a result of the
1461 incident; and, if the owner, operator, or insurer of the other
1462 train makes any payment to injured third parties outside the
1463 rail corridor who incur loss, injury, or damage as a result of
1464 the incident, the allocation of credit between the department
1465 and National Railroad Passenger Corporation as to such payment
1466 shall not in any case reduce National Railroad Passenger
1467 Corporation's third-party-sharing allocation of one-half under
1468 this sub-subparagraph to less than one-third of the total third
1469 party liability.

1470 6. Any such contractual duty to protect, defend, indemnify,
1471 and hold harmless such a freight rail operator or National
1472 Railroad Passenger Corporation shall expressly include a
1473 specific cap on the amount of the contractual duty, which amount
1474 shall not exceed \$200 million without prior legislative
1475 approval, and the department to purchase liability insurance and
1476 establish a self-insurance retention fund in the amount of the
1477 specific cap established under this subparagraph, provided that:

1478 a. No such contractual duty shall in any case be effective
1479 nor otherwise extend the department's liability in scope and

10-01036B-26

20261366

1480 effect beyond the contractual liability insurance and self-
1481 insurance retention fund required pursuant to this paragraph;
1482 and

1483 b.(I) The freight rail operator's compensation to the
1484 department for future use of the department's rail corridor
1485 shall include a monetary contribution to the cost of such
1486 liability coverage for the sole benefit of the freight rail
1487 operator.

1488 (II) National Railroad Passenger Corporation's compensation
1489 to the department for future use of the department's rail
1490 corridor shall include a monetary contribution to the cost of
1491 such liability coverage for the sole benefit of National
1492 Railroad Passenger Corporation.

1493 (b) Purchase liability insurance, which amount shall not
1494 exceed \$200 million, and establish a self-insurance retention
1495 fund for the purpose of paying the deductible limit established
1496 in the insurance policies it may obtain, including coverage for
1497 the department, any freight rail operator as described in
1498 paragraph (a), National Railroad Passenger Corporation, commuter
1499 rail service providers, governmental entities, or any ancillary
1500 development, which self-insurance retention fund or deductible
1501 shall not exceed \$10 million. The insureds shall pay a
1502 reasonable monetary contribution to the cost of such liability
1503 coverage for the sole benefit of the insured. Such insurance and
1504 self-insurance retention fund may provide coverage for all
1505 damages, including, but not limited to, compensatory, special,
1506 and exemplary, and be maintained to provide an adequate fund to
1507 cover claims and liabilities for loss, injury, or damage arising
1508 out of or connected with the ownership, operation, maintenance,

10-01036B-26

20261366

1509 and management of a rail corridor.

1510 (c) Incur expenses for the purchase of advertisements,
1511 marketing, and promotional items.

1512 (d) Without altering any of the rights granted to the
1513 department under this section, agree to assume the obligations
1514 to indemnify and insure, pursuant to s. 343.545, freight rail
1515 service, intercity passenger rail service, and commuter rail
1516 service on a department-owned rail corridor, whether ownership
1517 is in fee or by easement, or on a rail corridor where the
1518 department has the right to operate.

1519
1520 Neither the assumption by contract to protect, defend,
1521 indemnify, and hold harmless; the purchase of insurance; nor the
1522 establishment of a self-insurance retention fund shall be deemed
1523 to be a waiver of any defense of sovereign immunity for torts
1524 nor deemed to increase the limits of the department's or the
1525 governmental entity's liability for torts as provided in s.
1526 768.28. The requirements of s. 287.022(1) shall not apply to the
1527 purchase of any insurance under this subsection. The provisions
1528 of this subsection shall apply and inure fully as to any other
1529 governmental entity providing commuter rail service and
1530 constructing, operating, maintaining, or managing a rail
1531 corridor on publicly owned right-of-way under contract by the
1532 governmental entity with the department or a governmental entity
1533 designated by the department. Notwithstanding any law to the
1534 contrary, procurement for the construction, operation,
1535 maintenance, and management of any rail corridor described in
1536 this subsection, whether by the department, a governmental
1537 entity under contract with the department, or a governmental

10-01036B-26

20261366

1538 entity designated by the department, shall be pursuant to s.
1539 287.057 and shall include, but not be limited to, criteria for
1540 the consideration of qualifications, technical aspects of the
1541 proposal, and price. Further, any such contract for design-build
1542 shall be procured pursuant to the criteria in s. 337.11(7).

1543 Section 24. For the purpose of incorporating the amendment
1544 made by this act to section 768.28, Florida Statutes, in a
1545 reference thereto, subsection (3) of section 343.811, Florida
1546 Statutes, is reenacted to read:

1547 343.811 Power to assume indemnification and insurance
1548 obligations.—

1549 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In
1550 conjunction with the development or operation of a commuter rail
1551 service on the Coastal Link corridor, an agency may:

1552 (a) Assume obligations pursuant to the following:

1553 1.a. The agency may assume the obligation by contract to
1554 protect, defend, indemnify, and hold harmless FECR and its
1555 officers, agents, and employees from and against:

1556 (I) Any liability, cost, and expense, including, but not
1557 limited to, the agency's passengers and other rail corridor
1558 invitees in, on, or about the Coastal Link corridor, regardless
1559 of whether the loss, damage, destruction, injury, or death
1560 giving rise to any such liability, cost, or expense is caused in
1561 whole or in part, and to whatever nature or degree, by the
1562 fault, failure, negligence, misconduct, nonfeasance, or
1563 misfeasance of such freight rail operator, its successors, or
1564 its officers, agents, and employees, or any other person or
1565 persons whomsoever.

1566 (II) Any loss, injury, or damage incurred by other rail

10-01036B-26

20261366

1567 corridor invitees up to the amount of the self-insurance
1568 retention amount with respect to limited covered accidents
1569 caused by the agency.

1570 b. The agency may assume the obligation by contract to
1571 protect, defend, indemnify, and hold harmless Brightline and its
1572 officers, agents, and employees from and against:

1573 (I) Any liability, cost, and expense, including, but not
1574 limited to, the agency's passengers and rail corridor invitees
1575 in the Coastal Link corridor, regardless of whether the loss,
1576 damage, destruction, injury, or death giving rise to any such
1577 liability, cost, or expense is caused in whole or in part, and
1578 to whatever nature or degree, by the fault, failure, negligence,
1579 misconduct, nonfeasance, or misfeasance of Brightline, its
1580 successors, or its officers, agents, and employees, or any other
1581 person or persons whomsoever.

1582 (II) Any loss, injury, or damage incurred by other rail
1583 corridor invitees up to the amount of the self-insurance
1584 retention amount with respect to limited covered accidents
1585 caused by the agency.

1586 2. The assumption of liability of the agency by contract
1587 pursuant to sub subparagraph 1.a. or sub subparagraph 1.b. may
1588 not in any instance exceed the following parameters of
1589 allocation of risk:

1590 a. The agency may be solely responsible for any loss,
1591 injury, or damage to the agency's passengers, or rail corridor
1592 invitees, third parties, or trespassers, regardless of
1593 circumstances or cause, subject to sub subparagraph b. and
1594 subparagraphs 3., 4., and 5.

1595 b.(I) In the event of a limited covered accident caused by

10-01036B-26

20261366

1596 FECR, the authority of an agency to protect, defend, and
1597 indemnify FECR for all liability, cost, and expense, including
1598 punitive or exemplary damages, in excess of the self-insurance
1599 retention amount exists only if FECR agrees, with respect to
1600 such limited covered accident caused by FECR, to protect,
1601 defend, and indemnify the agency for the amount of the self-
1602 insurance retention amount.

1603 (II) In the event of a limited covered accident caused by
1604 Brightline, the authority of an agency to protect, defend, and
1605 indemnify Brightline for all liability, cost, and expense,
1606 including punitive or exemplary damages, in excess of the self-
1607 insurance retention amount exists only if Brightline agrees,
1608 with respect to such limited covered accident, to protect,
1609 defend, and indemnify the agency for the amount of the self-
1610 insurance retention amount.

1611 3. When only one train is involved in an incident and:

1612 a. The train is an agency's train, including an incident
1613 with trespassers or at-grade crossings, the agency may be solely
1614 responsible for any loss, injury, or damage.

1615 b. The train is FECR's train, including an incident with
1616 trespassers or at-grade crossings, FECR is solely responsible
1617 for any loss, injury, or damage, except for the agency's
1618 passengers and other rail corridor invitees, which are the
1619 responsibility of the agency, and Brightline's passengers and
1620 other rail corridor invitees, which are the responsibility of
1621 Brightline.

1622 c. The train is Brightline's train, including an incident
1623 with trespassers or at-grade crossings, Brightline is solely
1624 responsible for any loss, injury, or damage, except for the

10-01036B-26

20261366

1625 agency's passengers or rail corridor invitees, which are the
1626 responsibility of the agency, and FECR's rail corridor invitees,
1627 which are the responsibility of FECR.

1628 4. When an incident involves more than one operator, each
1629 operator is responsible for:

1630 a. Its property; passengers; employees, excluding employees
1631 who are, at the time of the incident, rail corridor invitees of
1632 another operator; and other rail corridor invitees.

1633 b. Its proportionate share of any loss or damage to the
1634 joint infrastructure.

1635 c. Its proportionate share of any loss, injury, or damage
1636 to:

1637 (I) Rail corridor invitees who are not rail corridor
1638 invitees of operators, provided that the agency shall always be
1639 responsible for its passengers and its rail corridor invitees
1640 regardless of whether the agency was involved in the incident.

1641 (II) Trespassers or third parties outside the Coastal Link
1642 corridor as a result of the incident.

1643 5. Any such contractual duty to protect, defend, indemnify,
1644 and hold harmless FECR or Brightline with respect to claims by
1645 rail passengers shall expressly include a specific cap on the
1646 amount of the contractual duty, which amount may not exceed \$323
1647 million per occurrence and shall be adjusted so that the per-
1648 occurrence insurance requirement is equal to the aggregate
1649 allowable awards to all rail passengers, against all defendants,
1650 for all claims, including claims for punitive damages, arising
1651 from a single accident or incident in accordance with 49 U.S.C.
1652 s. 28103, or any successor provision, without prior legislative
1653 approval.

10-01036B-26

20261366

1654 6. Notwithstanding any provision of this section to the
1655 contrary, the liabilities of the agency to the state or any
1656 other agency shall be as set forth in an agreement among such
1657 entities and limited by s. 768.28(19).

1658 (b) Purchase liability insurance, which amount may not
1659 exceed \$323 million per occurrence, which amount shall be
1660 adjusted so that the per-occurrence insurance requirement is
1661 equal to the aggregate allowable awards to all rail passengers,
1662 against all defendants, for all claims, including claims for
1663 punitive damages, arising from a single accident or incident in
1664 accordance with 49 U.S.C. s. 28103, or any successor provision,
1665 and establish a self-insurance retention fund for the purpose of
1666 paying the deductible limit established in the insurance
1667 policies it may obtain, including coverage for a county agency,
1668 any freight rail operator as described in paragraph (a),
1669 Brightline, commuter rail service providers, governmental
1670 entities, or any ancillary development, which self-insurance
1671 retention fund or deductible shall not exceed the self-insurance
1672 retention amount.

1673 1. Such insurance and self-insurance retention fund may
1674 provide coverage for all damages, including, but not limited to,
1675 compensatory, special, and exemplary, and be maintained to
1676 provide an adequate fund to cover claims and liabilities for
1677 loss, injury, or damage arising out of or connected with the
1678 ownership, operation, maintenance, and management of the Coastal
1679 Link corridor.

1680 2. Any self-insured retention account shall be a segregated
1681 account of the agency and shall be subject to the same
1682 conditions, restrictions, exclusions, obligations, and duties

10-01036B-26

20261366

1683 included in any and all of the policies of liability insurance
1684 purchased under this paragraph.

1685 3. Unless otherwise specifically provided by general law,
1686 FECR and Brightline, and their respective officers, agents, and
1687 employees, are not officers, agents, employees, or subdivisions
1688 of the state and are not entitled to sovereign immunity.

1689

1690 Neither the assumption by contract to protect, defend,
1691 indemnify, and hold harmless; the purchase of insurance; nor the
1692 establishment of a self-insurance retention fund shall be deemed
1693 to be a waiver of any defense of sovereign immunity for tort
1694 claims or deemed to increase the limits of the agency's
1695 liability for tort claims as provided in s. 768.28.

1696 Section 25. For the purpose of incorporating the amendment
1697 made by this act to section 768.28, Florida Statutes, in a
1698 reference thereto, paragraph (c) of subsection (4) of section
1699 351.03, Florida Statutes, is reenacted to read:

1700 351.03 Railroad-highway grade-crossing warning signs and
1701 signals; audible warnings; exercise of reasonable care; blocking
1702 highways, roads, and streets during darkness.—

1703 (4)

1704 (c) Nothing in this subsection shall be construed to
1705 nullify the liability provisions of s. 768.28.

1706 Section 26. For the purpose of incorporating the amendment
1707 made by this act to section 768.28, Florida Statutes, in a
1708 reference thereto, subsection (6) of section 373.1395, Florida
1709 Statutes, is reenacted to read:

1710 373.1395 Limitation on liability of water management
1711 district with respect to areas made available to the public for

10-01036B-26

20261366

1712 recreational purposes without charge.—

1713 (6) This section does not relieve any water management
1714 district of any liability that would otherwise exist for gross
1715 negligence or a deliberate, willful, or malicious injury to a
1716 person or property. This section does not create or increase the
1717 liability of any water management district or person beyond that
1718 which is authorized by s. 768.28.

1719 Section 27. For the purpose of incorporating the amendment
1720 made by this act to section 768.28, Florida Statutes, in a
1721 reference thereto, paragraph (a) of subsection (3) of section
1722 375.251, Florida Statutes, is reenacted to read:

1723 375.251 Limitation on liability of persons making available
1724 to public certain areas for recreational purposes without
1725 charge.—

1726 (3) (a) An owner of an area who enters into a written
1727 agreement concerning the area with a state agency for outdoor
1728 recreational purposes, where such agreement recognizes that the
1729 state agency is responsible for personal injury, loss, or damage
1730 resulting in whole or in part from the state agency's use of the
1731 area under the terms of the agreement subject to the limitations
1732 and conditions specified in s. 768.28, owes no duty of care to
1733 keep the area safe for entry or use by others, or to give
1734 warning to persons entering or going on the area of any
1735 hazardous conditions, structures, or activities thereon. An
1736 owner who enters into a written agreement concerning the area
1737 with a state agency for outdoor recreational purposes:

1738 1. Is not presumed to extend any assurance that the area is
1739 safe for any purpose;

1740 2. Does not incur any duty of care toward a person who goes

10-01036B-26

20261366

1741 on the area that is subject to the agreement; or

1742 3. Is not liable or responsible for any injury to persons
1743 or property caused by the act or omission of a person who goes
1744 on the area that is subject to the agreement.

1745 Section 28. For the purpose of incorporating the amendment
1746 made by this act to section 768.28, Florida Statutes, in a
1747 reference thereto, subsection (9) of section 381.0056, Florida
1748 Statutes, is reenacted to read:

1749 381.0056 School health services program.—

1750 (9) Any health care entity that provides school health
1751 services under contract with the department pursuant to a school
1752 health services plan developed under this section, and as part
1753 of a school nurse services public-private partnership, is deemed
1754 to be a corporation acting primarily as an instrumentality of
1755 the state solely for the purpose of limiting liability pursuant
1756 to s. 768.28(5). The limitations on tort actions contained in s.
1757 768.28(5) shall apply to any action against the entity with
1758 respect to the provision of school health services, if the
1759 entity is acting within the scope of and pursuant to guidelines
1760 established in the contract or by rule of the department. The
1761 contract must require the entity, or the partnership on behalf
1762 of the entity, to obtain general liability insurance coverage,
1763 with any additional endorsement necessary to insure the entity
1764 for liability assumed by its contract with the department. The
1765 Legislature intends that insurance be purchased by entities, or
1766 by partnerships on behalf of the entity, to cover all liability
1767 claims, and under no circumstances shall the state or the
1768 department be responsible for payment of any claims or defense
1769 costs for claims brought against the entity or its subcontractor

10-01036B-26

20261366

1770 for services performed under the contract with the department.
1771 This subsection does not preclude consideration by the
1772 Legislature for payment by the state of any claims bill
1773 involving an entity contracting with the department pursuant to
1774 this section.

1775 Section 29. For the purpose of incorporating the amendment
1776 made by this act to section 768.28, Florida Statutes, in a
1777 reference thereto, subsection (3) of section 393.075, Florida
1778 Statutes, is reenacted to read:

1779 393.075 General liability coverage.—

1780 (3) This section shall not be construed as designating or
1781 not designating that a person who owns or operates a foster care
1782 facility or group home facility as described in this section or
1783 any other person is an employee or agent of the state. Nothing
1784 in this section amends, expands, or supersedes the provisions of
1785 s. 768.28.

1786 Section 30. For the purpose of incorporating the amendment
1787 made by this act to section 768.28, Florida Statutes, in a
1788 reference thereto, subsection (7) of section 394.9085, Florida
1789 Statutes, is reenacted to read:

1790 394.9085 Behavioral provider liability.—

1791 (7) This section shall not be construed to waive sovereign
1792 immunity for any governmental unit or other entity protected by
1793 sovereign immunity. Section 768.28 shall continue to apply to
1794 all governmental units and such entities.

1795 Section 31. For the purpose of incorporating the amendment
1796 made by this act to section 768.28, Florida Statutes, in a
1797 reference thereto, paragraph (g) of subsection (10) of section
1798 395.1055, Florida Statutes, is reenacted to read:

10-01036B-26

20261366

1799 395.1055 Rules and enforcement.—
1800 (10) The agency shall establish a pediatric cardiac
1801 technical advisory panel, pursuant to s. 20.052, to develop
1802 procedures and standards for measuring outcomes of pediatric
1803 cardiac catheterization programs and pediatric cardiovascular
1804 surgery programs.
1805 (g) Panel members are agents of the state for purposes of
1806 s. 768.28 throughout the good faith performance of the duties
1807 assigned to them by the Secretary of Health Care Administration.
1808 Section 32. For the purpose of incorporating the amendment
1809 made by this act to section 768.28, Florida Statutes, in a
1810 reference thereto, paragraph (c) of subsection (17) of section
1811 403.706, Florida Statutes, is reenacted to read:
1812 403.706 Local government solid waste responsibilities.—
1813 (17) To effect the purposes of this part, counties and
1814 municipalities are authorized, in addition to other powers
1815 granted pursuant to this part:
1816 (c) To waive sovereign immunity and immunity from suit in
1817 federal court by vote of the governing body of the county or
1818 municipality to the extent necessary to carry out the authority
1819 granted in paragraphs (a) and (b), notwithstanding the
1820 limitations prescribed in s. 768.28.
1821 Section 33. For the purpose of incorporating the amendment
1822 made by this act to section 768.28, Florida Statutes, in a
1823 reference thereto, paragraph (b) of subsection (15) of section
1824 409.175, Florida Statutes, is reenacted to read:
1825 409.175 Licensure of family foster homes, residential
1826 child-caring agencies, and child-placing agencies; public
1827 records exemption.—

10-01036B-26

20261366

1828 (15)

1829 (b) This subsection may not be construed as designating or
1830 not designating that a person who owns or operates a family
1831 foster home as described in this subsection or any other person
1832 is an employee or agent of the state. Nothing in this subsection
1833 amends, expands, or supersedes the provisions of s. 768.28.

1834 Section 34. For the purpose of incorporating the amendment
1835 made by this act to section 768.28, Florida Statutes, in
1836 references thereto, subsection (1), paragraph (a) of subsection
1837 (2), and paragraph (a) of subsection (3) of section 409.993,
1838 Florida Statutes, are reenacted to read:

1839 409.993 Lead agencies and subcontractor liability.—

1840 (1) FINDINGS.—

1841 (a) The Legislature finds that the state has traditionally
1842 provided foster care services to children who are the
1843 responsibility of the state. As such, foster children have not
1844 had the right to recover for injuries beyond the limitations
1845 specified in s. 768.28. The Legislature has determined that
1846 foster care and related services should be outsourced pursuant
1847 to this section and that the provision of such services is of
1848 paramount importance to the state. The purpose of such
1849 outsourcing is to increase the level of safety, security, and
1850 stability of children who are or become the responsibility of
1851 the state. One of the components necessary to secure a safe and
1852 stable environment for such children is the requirement that
1853 private providers maintain liability insurance. As such,
1854 insurance needs to be available and remain available to
1855 nongovernmental foster care and related services providers
1856 without the resources of such providers being significantly

10-01036B-26

20261366

1857 reduced by the cost of maintaining such insurance.

1858 (b) The Legislature further finds that, by requiring the
1859 following minimum levels of insurance, children in outsourced
1860 foster care and related services will gain increased protection
1861 and rights of recovery in the event of injury than currently
1862 provided in s. 768.28.

1863 (2) LEAD AGENCY LIABILITY.—

1864 (a) Other than an entity to which s. 768.28 applies, an
1865 eligible community-based care lead agency, or its employees or
1866 officers, except as otherwise provided in paragraph (b), shall,
1867 as a part of its contract, obtain a minimum of \$1 million per
1868 occurrence with a policy period aggregate limit of \$3 million in
1869 general liability insurance coverage. The lead agency must also
1870 require that staff who transport client children and families in
1871 their personal automobiles in order to carry out their job
1872 responsibilities obtain minimum bodily injury liability
1873 insurance in the amount of \$100,000 per person per any one
1874 automobile accident, and subject to such limits for each person,
1875 \$300,000 for all damages resulting from any one automobile
1876 accident, on their personal automobiles. In lieu of personal
1877 motor vehicle insurance, the lead agency's casualty, liability,
1878 or motor vehicle insurance carrier may provide nonowned
1879 automobile liability coverage. This insurance provides liability
1880 insurance for an automobile that the lead agency uses in
1881 connection with the lead agency's business but does not own,
1882 lease, rent, or borrow. This coverage includes an automobile
1883 owned by an employee of the lead agency or a member of the
1884 employee's household but only while the automobile is used in
1885 connection with the lead agency's business. The nonowned

10-01036B-26

20261366

1886 automobile coverage for the lead agency applies as excess
1887 coverage over any other collectible insurance. The personal
1888 automobile policy for the employee of the lead agency shall be
1889 primary insurance, and the nonowned automobile coverage of the
1890 lead agency acts as excess insurance to the primary insurance.
1891 The lead agency shall provide a minimum limit of \$1 million in
1892 nonowned automobile coverage. In a tort action brought against
1893 such a lead agency or employee, net economic damages shall be
1894 limited to \$2 million per liability claim and \$200,000 per
1895 automobile claim, including, but not limited to, past and future
1896 medical expenses, wage loss, and loss of earning capacity,
1897 offset by any collateral source payment paid or payable. In any
1898 tort action brought against a lead agency, noneconomic damages
1899 shall be limited to \$400,000 per claim. A claims bill may be
1900 brought on behalf of a claimant pursuant to s. 768.28 for any
1901 amount exceeding the limits specified in this paragraph. Any
1902 offset of collateral source payments made as of the date of the
1903 settlement or judgment shall be in accordance with s. 768.76.
1904 The lead agency is not liable in tort for the acts or omissions
1905 of its subcontractors or the officers, agents, or employees of
1906 its subcontractors.

1907 (3) SUBCONTRACTOR LIABILITY.—

1908 (a) A subcontractor of an eligible community-based care
1909 lead agency that is a direct provider of foster care and related
1910 services to children and families, and its employees or
1911 officers, except as otherwise provided in paragraph (c), must,
1912 as a part of its contract, obtain a minimum of \$1 million per
1913 occurrence with a policy period aggregate limit of \$3 million in
1914 general liability insurance coverage. The subcontractor of a

10-01036B-26

20261366

1915 lead agency must also require that staff who transport client
1916 children and families in their personal automobiles in order to
1917 carry out their job responsibilities obtain minimum bodily
1918 injury liability insurance in the amount of \$100,000 per person
1919 in any one automobile accident, and subject to such limits for
1920 each person, \$300,000 for all damages resulting from any one
1921 automobile accident, on their personal automobiles. In lieu of
1922 personal motor vehicle insurance, the subcontractor's casualty,
1923 liability, or motor vehicle insurance carrier may provide
1924 nonowned automobile liability coverage. This insurance provides
1925 liability insurance for automobiles that the subcontractor uses
1926 in connection with the subcontractor's business but does not
1927 own, lease, rent, or borrow. This coverage includes automobiles
1928 owned by the employees of the subcontractor or a member of the
1929 employee's household but only while the automobiles are used in
1930 connection with the subcontractor's business. The nonowned
1931 automobile coverage for the subcontractor applies as excess
1932 coverage over any other collectible insurance. The personal
1933 automobile policy for the employee of the subcontractor shall be
1934 primary insurance, and the nonowned automobile coverage of the
1935 subcontractor acts as excess insurance to the primary insurance.
1936 The subcontractor shall provide a minimum limit of \$1 million in
1937 nonowned automobile coverage. In a tort action brought against
1938 such subcontractor or employee, net economic damages shall be
1939 limited to \$2 million per liability claim and \$200,000 per
1940 automobile claim, including, but not limited to, past and future
1941 medical expenses, wage loss, and loss of earning capacity,
1942 offset by any collateral source payment paid or payable. In a
1943 tort action brought against such subcontractor, noneconomic

10-01036B-26

20261366

1944 damages shall be limited to \$400,000 per claim. A claims bill
1945 may be brought on behalf of a claimant pursuant to s. 768.28 for
1946 any amount exceeding the limits specified in this paragraph. Any
1947 offset of collateral source payments made as of the date of the
1948 settlement or judgment shall be in accordance with s. 768.76.

1949 Section 35. For the purpose of incorporating the amendment
1950 made by this act to section 768.28, Florida Statutes, in a
1951 reference thereto, subsection (8) of section 420.504, Florida
1952 Statutes, is reenacted to read:

1953 420.504 Public corporation; creation, membership, terms,
1954 expenses.—

1955 (8) The corporation is a corporation primarily acting as an
1956 instrumentality of the state, within the meaning of s. 768.28.

1957 Section 36. For the purpose of incorporating the amendment
1958 made by this act to section 768.28, Florida Statutes, in a
1959 reference thereto, subsection (3) of section 455.221, Florida
1960 Statutes, is reenacted to read:

1961 455.221 Legal and investigative services.—

1962 (3) Any person retained by the department under contract to
1963 review materials, make site visits, or provide expert testimony
1964 regarding any complaint or application filed with the department
1965 relating to a profession under the jurisdiction of the
1966 department shall be considered an agent of the department in
1967 determining the state insurance coverage and sovereign immunity
1968 protection applicability of ss. 284.31 and 768.28.

1969 Section 37. For the purpose of incorporating the amendment
1970 made by this act to section 768.28, Florida Statutes, in a
1971 reference thereto, subsection (5) of section 455.32, Florida
1972 Statutes, is reenacted to read:

10-01036B-26

20261366

1973 455.32 Management Privatization Act.—
1974 (5) Any such corporation may hire staff as necessary to
1975 carry out its functions. Such staff are not public employees for
1976 the purposes of chapter 110 or chapter 112, except that the
1977 board of directors and the employees of the corporation are
1978 subject to the provisions of s. 112.061 and part III of chapter
1979 112. The provisions of s. 768.28 apply to each such corporation,
1980 which is deemed to be a corporation primarily acting as an
1981 instrumentality of the state but which is not an agency within
1982 the meaning of s. 20.03(1).

1983 Section 38. For the purpose of incorporating the amendment
1984 made by this act to section 768.28, Florida Statutes, in a
1985 reference thereto, subsection (3) of section 456.009, Florida
1986 Statutes, is reenacted to read:

1987 456.009 Legal and investigative services.—

1988 (3) Any person retained by the department under contract to
1989 review materials, make site visits, or provide expert testimony
1990 regarding any complaint or application filed with the department
1991 relating to a profession under the jurisdiction of the
1992 department shall be considered an agent of the department in
1993 determining the state insurance coverage and sovereign immunity
1994 protection applicability of ss. 284.31 and 768.28.

1995 Section 39. For the purpose of incorporating the amendment
1996 made by this act to section 768.28, Florida Statutes, in a
1997 reference thereto, paragraph (a) of subsection (15) of section
1998 456.076, Florida Statutes, is reenacted to read:

1999 456.076 Impaired practitioner programs.—

2000 (15) (a) A consultant retained pursuant to this section and
2001 a consultant's directors, officers, employees, or agents shall

10-01036B-26

20261366

2002 be considered agents of the department for purposes of s. 768.28
2003 while acting within the scope of the consultant's duties under
2004 the contract with the department.

2005 Section 40. For the purpose of incorporating the amendment
2006 made by this act to section 768.28, Florida Statutes, in a
2007 reference thereto, subsection (3) of section 471.038, Florida
2008 Statutes, is reenacted to read:

2009 471.038 Florida Engineers Management Corporation.—

2010 (3) The Florida Engineers Management Corporation is created
2011 to provide administrative, investigative, and prosecutorial
2012 services to the board in accordance with the provisions of
2013 chapter 455 and this chapter. The management corporation may
2014 hire staff as necessary to carry out its functions. Such staff
2015 are not public employees for the purposes of chapter 110 or
2016 chapter 112, except that the board of directors and the staff
2017 are subject to the provisions of s. 112.061. The provisions of
2018 s. 768.28 apply to the management corporation, which is deemed
2019 to be a corporation primarily acting as an instrumentality of
2020 the state, but which is not an agency within the meaning of s.
2021 20.03(1). The management corporation shall:

2022 (a) Be a Florida corporation not for profit, incorporated
2023 under the provisions of chapter 617.

2024 (b) Provide administrative, investigative, and
2025 prosecutorial services to the board in accordance with the
2026 provisions of chapter 455, this chapter, and the contract
2027 required by this section.

2028 (c) Receive, hold, and administer property and make only
2029 prudent expenditures directly related to the responsibilities of
2030 the board, and in accordance with the contract required by this

10-01036B-26

20261366

2031 section.

2032 (d) Be approved by the board, and the department, to
2033 operate for the benefit of the board and in the best interest of
2034 the state.

2035 (e) Operate under a fiscal year that begins on July 1 of
2036 each year and ends on June 30 of the following year.

2037 (f) Have a seven-member board of directors, five of whom
2038 are to be appointed by the board and must be registrants
2039 regulated by the board and two of whom are to be appointed by
2040 the secretary and must be laypersons not regulated by the board.
2041 All appointments shall be for 4-year terms. No member shall
2042 serve more than two consecutive terms. Failure to attend three
2043 consecutive meetings shall be deemed a resignation from the
2044 board, and the vacancy shall be filled by a new appointment.

2045 (g) Select its officers in accordance with its bylaws. The
2046 members of the board of directors who were appointed by the
2047 board may be removed by the board.

2048 (h) Select the president of the management corporation, who
2049 shall also serve as executive director to the board, subject to
2050 approval of the board.

2051 (i) Use a portion of the interest derived from the
2052 management corporation account to offset the costs associated
2053 with the use of credit cards for payment of fees by applicants
2054 or licensees.

2055 (j) Operate under a written contract with the department
2056 which is approved by the board. The contract must provide for,
2057 but is not limited to:

2058 1. Submission by the management corporation of an annual
2059 budget that complies with board rules for approval by the board

10-01036B-26

20261366

2060 and the department.

2061 2. Annual certification by the board and the department
2062 that the management corporation is complying with the terms of
2063 the contract in a manner consistent with the goals and purposes
2064 of the board and in the best interest of the state. This
2065 certification must be reported in the board's minutes. The
2066 contract must also provide for methods and mechanisms to resolve
2067 any situation in which the certification process determines
2068 noncompliance.

2069 3. Funding of the management corporation through
2070 appropriations allocated to the regulation of professional
2071 engineers from the Professional Regulation Trust Fund.

2072 4. The reversion to the board, or the state if the board
2073 ceases to exist, of moneys, records, data, and property held in
2074 trust by the management corporation for the benefit of the
2075 board, if the management corporation is no longer approved to
2076 operate for the board or the board ceases to exist. All records
2077 and data in a computerized database shall be returned to the
2078 department in a form that is compatible with the computerized
2079 database of the department.

2080 5. The securing and maintaining by the management
2081 corporation, during the term of the contract and for all acts
2082 performed during the term of the contract, of all liability
2083 insurance coverages in an amount to be approved by the board to
2084 defend, indemnify, and hold harmless the management corporation
2085 and its officers and employees, the department and its
2086 employees, and the state against all claims arising from state
2087 and federal laws. Such insurance coverage must be with insurers
2088 qualified and doing business in the state. The management

10-01036B-26

20261366

2089 corporation must provide proof of insurance to the department.
2090 The department and its employees and the state are exempt from
2091 and are not liable for any sum of money which represents a
2092 deductible, which sums shall be the sole responsibility of the
2093 management corporation. Violation of this subparagraph shall be
2094 grounds for terminating the contract.

2095 6. Payment by the management corporation, out of its
2096 allocated budget, to the department of all costs of
2097 representation by the board counsel, including salary and
2098 benefits, travel, and any other compensation traditionally paid
2099 by the department to other board counsel.

2100 7. Payment by the management corporation, out of its
2101 allocated budget, to the department of all costs incurred by the
2102 management corporation or the board for the Division of
2103 Administrative Hearings of the Department of Management Services
2104 and any other cost for utilization of these state services.

2105 8. Payment by the management corporation, out of its
2106 allocated budget, to the department of reasonable costs
2107 associated with the contract monitor.

2108 (k) Provide for an annual financial audit of its financial
2109 accounts and records by an independent certified public
2110 accountant. The annual audit report shall include a management
2111 letter in accordance with s. 11.45 and a detailed supplemental
2112 schedule of expenditures for each expenditure category. The
2113 annual audit report must be submitted to the board, the
2114 department, and the Auditor General for review.

2115 (l) Provide for persons not employed by the corporation who
2116 are charged with the responsibility of receiving and depositing
2117 fee and fine revenues to have a faithful performance bond in

10-01036B-26

20261366

2118 such an amount and according to such terms as shall be
2119 determined in the contract.

2120 (m) Submit to the secretary, the board, and the
2121 Legislature, on or before October 1 of each year, a report on
2122 the status of the corporation which includes, but is not limited
2123 to, information concerning the programs and funds that have been
2124 transferred to the corporation. The report must include: the
2125 number of license applications received; the number approved and
2126 denied and the number of licenses issued; the number of
2127 examinations administered and the number of applicants who
2128 passed or failed the examination; the number of complaints
2129 received; the number determined to be legally sufficient; the
2130 number dismissed; the number determined to have probable cause;
2131 the number of administrative complaints issued and the status of
2132 the complaints; and the number and nature of disciplinary
2133 actions taken by the board.

2134 (n) Develop and submit to the department, performance
2135 standards and measurable outcomes for the board to adopt by rule
2136 in order to facilitate efficient and cost-effective regulation.

2137 Section 41. For the purpose of incorporating the amendment
2138 made by this act to section 768.28, Florida Statutes, in a
2139 reference thereto, paragraph (b) of subsection (11) of section
2140 472.006, Florida Statutes, is reenacted to read:

2141 472.006 Department; powers and duties.—The department
2142 shall:

2143 (11) Provide legal counsel for the board by contracting
2144 with the Department of Legal Affairs, by retaining private
2145 counsel pursuant to s. 287.059, or by providing department staff
2146 counsel. The board shall periodically review and evaluate the

10-01036B-26

20261366

2147 services provided by its board counsel. Fees and costs of such
2148 counsel shall be paid from the General Inspection Trust Fund,
2149 subject to ss. 215.37 and 472.011. All contracts for independent
2150 legal counsel must provide for periodic review and evaluation by
2151 the board and the department of services provided.

2152 (b) Any person retained by the department under contract to
2153 review materials, make site visits, or provide expert testimony
2154 regarding any complaint or application filed with the department
2155 relating to the practice of surveying and mapping shall be
2156 considered an agent of the department in determining the state
2157 insurance coverage and sovereign immunity protection
2158 applicability of ss. 284.31 and 768.28.

2159 Section 42. For the purpose of incorporating the amendment
2160 made by this act to section 768.28, Florida Statutes, in a
2161 reference thereto, subsection (7) of section 497.167, Florida
2162 Statutes, is reenacted to read:

2163 497.167 Administrative matters.—

2164 (7) Any person retained by the department under contract to
2165 review materials, make site visits, or provide expert testimony
2166 regarding any complaint or application filed with the
2167 department, relating to regulation under this chapter, shall be
2168 considered an agent of the department in determining the state
2169 insurance coverage and sovereign immunity protection
2170 applicability of ss. 284.31 and 768.28.

2171 Section 43. For the purpose of incorporating the amendment
2172 made by this act to section 768.28, Florida Statutes, in a
2173 reference thereto, subsection (2) of section 513.118, Florida
2174 Statutes, is reenacted to read:

2175 513.118 Conduct on premises; refusal of service.—

10-01036B-26

20261366

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

Section 44. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 548.046, Florida Statutes, is reenacted to read:

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

(1) The commission, or the commission representative, shall assign to each match at least one physician who shall observe the physical condition of the participants and advise the commissioner or commission representative in charge and the referee of the participants' conditions before, during, and after the match. The commission shall establish a schedule of fees for the physician's services. The physician's fee shall be paid by the promoter of the match attended by the physician. The physician shall be considered an agent of the commission in

10-01036B-26

20261366

2205 determining the state insurance coverage and sovereign immunity
2206 protection applicability of ss. 284.31 and 768.28.

2207 Section 45. For the purpose of incorporating the amendment
2208 made by this act to section 768.28, Florida Statutes, in a
2209 reference thereto, subsection (8) of section 556.106, Florida
2210 Statutes, is reenacted to read:

2211 556.106 Liability of the member operator, excavator, and
2212 system.—

2213 (8) Any liability of the state, its agencies, or its
2214 subdivisions which arises out of this chapter is subject to the
2215 provisions of s. 768.28.

2216 Section 46. For the purpose of incorporating the amendment
2217 made by this act to section 768.28, Florida Statutes, in a
2218 reference thereto, paragraph (e) of subsection (4) of section
2219 589.19, Florida Statutes, is reenacted to read:

2220 589.19 Creation of certain state forests; naming of certain
2221 state forests; Operation Outdoor Freedom Program.—

2222 (4)

2223 (e)1. A private landowner who provides land for designation
2224 and use as an Operation Outdoor Freedom Program hunting site
2225 shall have limited liability pursuant to s. 375.251.

2226 2. A private landowner who consents to the designation and
2227 use of land as part of the Operation Outdoor Freedom Program
2228 without compensation shall be considered a volunteer, as defined
2229 in s. 110.501, and shall be covered by state liability
2230 protection pursuant to s. 768.28, including s. 768.28(9).

2231 3. This subsection does not:

2232 a. Relieve any person of liability that would otherwise
2233 exist for deliberate, willful, or malicious injury to persons or

10-01036B-26

20261366

2234 property.

2235 b. Create or increase the liability of any person.

2236 Section 47. For the purpose of incorporating the amendment
2237 made by this act to section 768.28, Florida Statutes, in
2238 references thereto, subsections (3) and (4) of section 627.7491,
2239 Florida Statutes, are reenacted to read:2240 627.7491 Official law enforcement vehicles; motor vehicle
2241 insurance requirements.—2242 (3) Any suit or action brought or maintained against an
2243 employing agency for damages arising out of tort pursuant to
2244 this section, including, without limitation, any claim arising
2245 upon account of an act causing loss of property, personal
2246 injury, or death, shall be subject to the limitations provided
2247 in s. 768.28(5).2248 (4) The requirements of this section may be met by any
2249 method authorized by s. 768.28(16).2250 Section 48. For the purpose of incorporating the amendment
2251 made by this act to section 768.28, Florida Statutes, in a
2252 reference thereto, paragraph (c) of subsection (2) of section
2253 723.0611, Florida Statutes, is reenacted to read:

2254 723.0611 Florida Mobile Home Relocation Corporation.—

2255 (2)

2256 (c) The corporation shall, for purposes of s. 768.28, be
2257 considered an agency of the state. Agents or employees of the
2258 corporation, members of the board of directors of the
2259 corporation, or representatives of the Division of Florida
2260 Condominiums, Timeshares, and Mobile Homes shall be considered
2261 officers, employees, or agents of the state, and actions against
2262 them and the corporation shall be governed by s. 768.28.

10-01036B-26

20261366

2263 Section 49. For the purpose of incorporating the amendment
2264 made by this act to section 768.28, Florida Statutes, in a
2265 reference thereto, subsection (5) of section 760.11, Florida
2266 Statutes, is reenacted to read:

2267 760.11 Administrative and civil remedies; construction.—

2268 (5) In any civil action brought under this section, the
2269 court may issue an order prohibiting the discriminatory practice
2270 and providing affirmative relief from the effects of the
2271 practice, including back pay. The court may also award
2272 compensatory damages, including, but not limited to, damages for
2273 mental anguish, loss of dignity, and any other intangible
2274 injuries, and punitive damages. The provisions of ss. 768.72 and
2275 768.73 do not apply to this section. The judgment for the total
2276 amount of punitive damages awarded under this section to an
2277 aggrieved person shall not exceed \$100,000. In any action or
2278 proceeding under this subsection, the court, in its discretion,
2279 may allow the prevailing party a reasonable attorney's fee as
2280 part of the costs. It is the intent of the Legislature that this
2281 provision for attorney's fees be interpreted in a manner
2282 consistent with federal case law involving a Title VII action.
2283 The right to trial by jury is preserved in any such private
2284 right of action in which the aggrieved person is seeking
2285 compensatory or punitive damages, and any party may demand a
2286 trial by jury. The commission's determination of reasonable
2287 cause is not admissible into evidence in any civil proceeding,
2288 including any hearing or trial, except to establish for the
2289 court the right to maintain the private right of action. A civil
2290 action brought under this section shall be commenced no later
2291 than 1 year after the date of determination of reasonable cause

10-01036B-26

20261366

2292 by the commission. The commencement of such action shall divest
2293 the commission of jurisdiction of the complaint, except that the
2294 commission may intervene in the civil action as a matter of
2295 right. Notwithstanding the above, the state and its agencies and
2296 subdivisions shall not be liable for punitive damages. The total
2297 amount of recovery against the state and its agencies and
2298 subdivisions shall not exceed the limitation as set forth in s.
2299 768.28(5).

2300 Section 50. For the purpose of incorporating the amendment
2301 made by this act to section 768.28, Florida Statutes, in a
2302 reference thereto, subsection (4) of section 766.1115, Florida
2303 Statutes, is reenacted to read:

2304 766.1115 Health care providers; creation of agency
2305 relationship with governmental contractors.—

2306 (4) CONTRACT REQUIREMENTS.—A health care provider that
2307 executes a contract with a governmental contractor to deliver
2308 health care services on or after April 17, 1992, as an agent of
2309 the governmental contractor is an agent for purposes of s.
2310 768.28(9), while acting within the scope of duties under the
2311 contract, if the contract complies with the requirements of this
2312 section and regardless of whether the individual treated is
2313 later found to be ineligible. A health care provider shall
2314 continue to be an agent for purposes of s. 768.28(9) for 30 days
2315 after a determination of ineligibility to allow for treatment
2316 until the individual transitions to treatment by another health
2317 care provider. A health care provider under contract with the
2318 state may not be named as a defendant in any action arising out
2319 of medical care or treatment provided on or after April 17,
2320 1992, under contracts entered into under this section. The

10-01036B-26

20261366

2321 contract must provide that:

2322 (a) The right of dismissal or termination of any health
2323 care provider delivering services under the contract is retained
2324 by the governmental contractor.

2325 (b) The governmental contractor has access to the patient
2326 records of any health care provider delivering services under
2327 the contract.

2328 (c) Adverse incidents and information on treatment outcomes
2329 must be reported by any health care provider to the governmental
2330 contractor if the incidents and information pertain to a patient
2331 treated under the contract. The health care provider shall
2332 submit the reports required by s. 395.0197. If an incident
2333 involves a professional licensed by the Department of Health or
2334 a facility licensed by the Agency for Health Care
2335 Administration, the governmental contractor shall submit such
2336 incident reports to the appropriate department or agency, which
2337 shall review each incident and determine whether it involves
2338 conduct by the licensee that is subject to disciplinary action.
2339 All patient medical records and any identifying information
2340 contained in adverse incident reports and treatment outcomes
2341 which are obtained by governmental entities under this paragraph
2342 are confidential and exempt from the provisions of s. 119.07(1)
2343 and s. 24(a), Art. I of the State Constitution.

2344 (d) Patient selection and initial referral must be made by
2345 the governmental contractor or the provider. Patients may not be
2346 transferred to the provider based on a violation of the
2347 antidumping provisions of the Omnibus Budget Reconciliation Act
2348 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
2349 chapter 395.

10-01036B-26

20261366

(e) If emergency care is required, the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.

(f) The provider is subject to supervision and regular inspection by the governmental contractor.

(g) As an agent of the governmental contractor for purposes of s. 768.28(9), while acting within the scope of duties under the contract, a health care provider licensed under chapter 466 may allow a patient, or a parent or guardian of the patient, to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided to the patient. This contribution may not exceed the actual cost of the dental laboratory charges.

A governmental contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.

Section 51. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (2) of section 766.112, Florida Statutes, is reenacted to read:

766.112 Comparative fault.—

(2) In an action for damages for personal injury or wrongful death arising out of medical negligence, whether in contract or tort, when an apportionment of damages pursuant to s. 768.81 is attributed to a board of trustees of a state university, the court shall enter judgment against the board of

10-01036B-26

20261366

2379 trustees on the basis of the board's percentage of fault and not
2380 on the basis of the doctrine of joint and several liability. The
2381 sole remedy available to a claimant to collect a judgment or
2382 settlement against a board of trustees, subject to the
2383 provisions of this subsection, shall be pursuant to s. 768.28.

2384 Section 52. For the purpose of incorporating the amendment
2385 made by this act to section 768.28, Florida Statutes, in a
2386 reference thereto, subsection (3) of section 768.1355, Florida
2387 Statutes, is reenacted to read:

2388 768.1355 Florida Volunteer Protection Act.—

2389 (3) Members of elected or appointed boards, councils, and
2390 commissions of the state, counties, municipalities, authorities,
2391 and special districts shall incur no civil liability and shall
2392 have immunity from suit as provided in s. 768.28 for acts or
2393 omissions by members relating to members' conduct of their
2394 official duties. It is the intent of the Legislature to
2395 encourage our best and brightest people to serve on elected and
2396 appointed boards, councils, and commissions.

2397 Section 53. For the purpose of incorporating the amendment
2398 made by this act to section 768.28, Florida Statutes, in a
2399 reference thereto, subsection (7) of section 768.1382, Florida
2400 Statutes, is reenacted to read:

2401 768.1382 Streetlights, security lights, and other similar
2402 illumination; limitation on liability.—

2403 (7) In the event that there is any conflict between this
2404 section and s. 768.81, or any other section of the Florida
2405 Statutes, this section shall control. Further, nothing in this
2406 section shall impact or waive any provision of s. 768.28.

2407 Section 54. For the purpose of incorporating the amendment

10-01036B-26

20261366

2408 made by this act to section 768.28, Florida Statutes, in a
2409 reference thereto, subsection (4) of section 768.295, Florida
2410 Statutes, is reenacted to read:

2411 768.295 Strategic Lawsuits Against Public Participation
2412 (SLAPP) prohibited.—

2413 (4) A person or entity sued by a governmental entity or
2414 another person in violation of this section has a right to an
2415 expeditious resolution of a claim that the suit is in violation
2416 of this section. A person or entity may move the court for an
2417 order dismissing the action or granting final judgment in favor
2418 of that person or entity. The person or entity may file a motion
2419 for summary judgment, together with supplemental affidavits,
2420 seeking a determination that the claimant's or governmental
2421 entity's lawsuit has been brought in violation of this section.
2422 The claimant or governmental entity shall thereafter file a
2423 response and any supplemental affidavits. As soon as
2424 practicable, the court shall set a hearing on the motion, which
2425 shall be held at the earliest possible time after the filing of
2426 the claimant's or governmental entity's response. The court may
2427 award, subject to the limitations in s. 768.28, the party sued
2428 by a governmental entity actual damages arising from a
2429 governmental entity's violation of this section. The court shall
2430 award the prevailing party reasonable attorney fees and costs
2431 incurred in connection with a claim that an action was filed in
2432 violation of this section.

2433 Section 55. For the purpose of incorporating the amendment
2434 made by this act to section 768.28, Florida Statutes, in a
2435 reference thereto, section 946.5026, Florida Statutes, is
2436 reenacted to read:

10-01036B-26

20261366

2437 946.5026 Sovereign immunity in tort actions.—The provisions
2438 of s. 768.28 shall be applicable to the corporation established
2439 under this part, which is deemed to be a corporation primarily
2440 acting as an instrumentality of the state.

2441 Section 56. For the purpose of incorporating the amendment
2442 made by this act to section 768.28, Florida Statutes, in a
2443 reference thereto, subsection (3) of section 946.514, Florida
2444 Statutes, is reenacted to read:

2445 946.514 Civil rights of inmates; inmates not state
2446 employees; liability of corporation for inmate injuries.—

2447 (3) The corporation is liable for inmate injury to the
2448 extent specified in s. 768.28; however, the members of the board
2449 of directors are not individually liable to any inmate for any
2450 injury sustained in any correctional work program operated by
2451 the corporation.

2452 Section 57. For the purpose of incorporating the amendment
2453 made by this act to section 768.28, Florida Statutes, in a
2454 reference thereto, subsection (8) of section 961.06, Florida
2455 Statutes, is reenacted to read:

2456 961.06 Compensation for wrongful incarceration.—

2457 (8) Any payment made under this act does not constitute a
2458 waiver of any defense of sovereign immunity or an increase in
2459 the limits of liability on behalf of the state or any person
2460 subject to s. 768.28 or any other law.

2461 Section 58. For the purpose of incorporating the amendment
2462 made by this act to section 768.28, Florida Statutes, in a
2463 reference thereto, subsection (3) of section 984.09, Florida
2464 Statutes, is reenacted to read:

2465 984.09 Punishment for contempt of court; alternative

10-01036B-26

20261366

2466 sanctions.—

2467 (3) ALTERNATIVE SANCTIONS.—Upon determining that a child
2468 has committed direct contempt of court or indirect contempt of a
2469 valid court order, the court may immediately request the circuit
2470 alternative sanctions coordinator to recommend the most
2471 appropriate available alternative sanction and shall order the
2472 child to perform up to 50 hours of community service or a
2473 similar alternative sanction, unless an alternative sanction is
2474 unavailable or inappropriate, or unless the child has failed to
2475 comply with a prior alternative sanction. Alternative contempt
2476 sanctions may be provided by local industry or by any nonprofit
2477 organization or any public or private business or service entity
2478 that has entered into a contract with the department to act as
2479 an agent of the state to provide voluntary supervision of
2480 children on behalf of the state in exchange for the labor of
2481 children and limited immunity in accordance with s. 768.28(11).

2482 Section 59. For the purpose of incorporating the amendment
2483 made by this act to section 768.28, Florida Statutes, in a
2484 reference thereto, paragraph (h) of subsection (12) of section
2485 1002.33, Florida Statutes, is reenacted to read:

2486 1002.33 Charter schools.—

2487 (12) EMPLOYEES OF CHARTER SCHOOLS.—

2488 (h) For the purposes of tort liability, the charter school,
2489 including its governing body and employees, shall be governed by
2490 s. 768.28. This paragraph does not include any for-profit entity
2491 contracted by the charter school or its governing body.

2492 Section 60. For the purpose of incorporating the amendment
2493 made by this act to section 768.28, Florida Statutes, in a
2494 reference thereto, paragraph (b) of subsection (6) of section

10-01036B-26

20261366

2495 1002.333, Florida Statutes, is reenacted to read:
2496 1002.333 Persistently low-performing schools.—
2497 (6) STATUTORY AUTHORITY.—
2498 (b) For the purposes of tort liability, the hope operator,
2499 the school of hope, and its employees or agents shall be
2500 governed by s. 768.28. The sponsor shall not be liable for civil
2501 damages under state law for the employment actions or personal
2502 injury, property damage, or death resulting from an act or
2503 omission of a hope operator, the school of hope, or its
2504 employees or agents. This paragraph does not include any for-
2505 profit entity contracted by the charter school or its governing
2506 body.

2507 Section 61. For the purpose of incorporating the amendment
2508 made by this act to section 768.28, Florida Statutes, in a
2509 reference thereto, subsection (17) of section 1002.34, Florida
2510 Statutes, is reenacted to read:

2511 1002.34 Charter technical career centers.—
2512 (17) IMMUNITY.—For the purposes of tort liability, the
2513 governing body and employees of a center are governed by s.
2514 768.28.

2515 Section 62. For the purpose of incorporating the amendment
2516 made by this act to section 768.28, Florida Statutes, in a
2517 reference thereto, subsection (2) of section 1002.37, Florida
2518 Statutes, is reenacted to read:

2519 1002.37 The Florida Virtual School.—
2520 (2) The Florida Virtual School shall be governed by a board
2521 of trustees comprised of seven members appointed by the Governor
2522 to 4-year staggered terms. The board of trustees shall be a
2523 public agency entitled to sovereign immunity pursuant to s.

10-01036B-26

20261366

2524 768.28, and board members shall be public officers who shall
2525 bear fiduciary responsibility for the Florida Virtual School.
2526 The board of trustees shall have the following powers and
2527 duties:

2528 (a)1. The board of trustees shall meet at least 4 times
2529 each year, upon the call of the chair, or at the request of a
2530 majority of the membership.

2531 2. The fiscal year for the Florida Virtual School shall be
2532 the state fiscal year as provided in s. 216.011(1)(q).

2533 (b) The board of trustees shall be responsible for the
2534 Florida Virtual School's development of a state-of-the-art
2535 technology-based education delivery system that is cost-
2536 effective, educationally sound, marketable, and capable of
2537 sustaining a self-sufficient delivery system through the Florida
2538 Education Finance Program.

2539 (c) The board of trustees shall aggressively seek avenues
2540 to generate revenue to support its future endeavors, and shall
2541 enter into agreements with distance learning providers. The
2542 board of trustees may acquire, enjoy, use, and dispose of
2543 patents, copyrights, and trademarks and any licenses and other
2544 rights or interests thereunder or therein. Ownership of all such
2545 patents, copyrights, trademarks, licenses, and rights or
2546 interests thereunder or therein shall vest in the state, with
2547 the board of trustees having full right of use and full right to
2548 retain the revenues derived therefrom. Any funds realized from
2549 patents, copyrights, trademarks, or licenses shall be considered
2550 internal funds as provided in s. 1011.07. Such funds shall be
2551 used to support the school's marketing and research and
2552 development activities in order to improve courseware and

10-01036B-26

20261366

2553 services to its students.

2554 (d) The board of trustees shall be responsible for the
2555 administration and control of all local school funds derived
2556 from all activities or sources and shall prescribe the
2557 principles and procedures to be followed in administering these
2558 funds.

2559 (e) The Florida Virtual School may accrue supplemental
2560 revenue from supplemental support organizations, which include,
2561 but are not limited to, alumni associations, foundations,
2562 parent-teacher associations, and booster associations. The
2563 governing body of each supplemental support organization shall
2564 recommend the expenditure of moneys collected by the
2565 organization for the benefit of the school. Such expenditures
2566 shall be contingent upon the review of the executive director.
2567 The executive director may override any proposed expenditure of
2568 the organization that would violate Florida law or breach sound
2569 educational management.

2570 (f) In accordance with law and rules of the State Board of
2571 Education, the board of trustees shall administer and maintain
2572 personnel programs for all employees of the board of trustees
2573 and the Florida Virtual School. The board of trustees may adopt
2574 rules, policies, and procedures related to the appointment,
2575 employment, and removal of personnel.

2576 1. The board of trustees shall determine the compensation,
2577 including salaries and fringe benefits, and other conditions of
2578 employment for such personnel.

2579 2. The board of trustees may establish and maintain a
2580 personnel loan or exchange program by which persons employed by
2581 the board of trustees for the Florida Virtual School as academic

10-01036B-26

20261366

2582 administrative and instructional staff may be loaned to, or
2583 exchanged with persons employed in like capacities by, public
2584 agencies either within or without this state, or by private
2585 industry. With respect to public agency employees, the program
2586 authorized by this subparagraph shall be consistent with the
2587 requirements of part II of chapter 112. The salary and benefits
2588 of board of trustees personnel participating in the loan or
2589 exchange program shall be continued during the period of time
2590 they participate in a loan or exchange program, and such
2591 personnel shall be deemed to have no break in creditable or
2592 continuous service or employment during such time. The salary
2593 and benefits of persons participating in the personnel loan or
2594 exchange program who are employed by public agencies or private
2595 industry shall be paid by the originating employers of those
2596 participants, and such personnel shall be deemed to have no
2597 break in creditable or continuous service or employment during
2598 such time.

2599 3. The employment of all Florida Virtual School academic
2600 administrative and instructional personnel shall be subject to
2601 rejection for cause by the board of trustees, and shall be
2602 subject to policies of the board of trustees relative to
2603 certification, tenure, leaves of absence, sabbaticals,
2604 remuneration, and such other conditions of employment as the
2605 board of trustees deems necessary and proper, not inconsistent
2606 with law.

2607 4. Each person employed by the board of trustees in an
2608 academic administrative or instructional capacity with the
2609 Florida Virtual School shall be entitled to a contract as
2610 provided by rules of the board of trustees.

10-01036B-26

20261366

2611 5. All employees except temporary, seasonal, and student
2612 employees may be state employees for the purpose of being
2613 eligible to participate in the Florida Retirement System and
2614 receive benefits. The classification and pay plan, including
2615 terminal leave and other benefits, and any amendments thereto,
2616 shall be subject to review and approval by the Department of
2617 Management Services and the Executive Office of the Governor
2618 prior to adoption.

2619 (g) The board of trustees shall establish priorities for
2620 admission of students in accordance with paragraph (1) (b).

2621 (h) The board of trustees shall establish and distribute to
2622 all school districts and high schools in the state procedures
2623 for enrollment of students in courses offered by the Florida
2624 Virtual School.

2625 (i) The board of trustees shall establish criteria defining
2626 the elements of an approved franchise. The board of trustees may
2627 enter into franchise agreements with Florida district school
2628 boards and may establish the terms and conditions governing such
2629 agreements. The board of trustees shall establish the
2630 performance and accountability measures and report the
2631 performance of each school district franchise to the
2632 Commissioner of Education.

2633 (j) The board of trustees shall submit to the State Board
2634 of Education both forecasted and actual enrollments and credit
2635 completions for the Florida Virtual School, according to
2636 procedures established by the State Board of Education. At a
2637 minimum, such procedures must include the number of public,
2638 private, and home education students served by program and by
2639 county of residence.

10-01036B-26

20261366

2640 (k) The board of trustees shall provide for the content and
2641 custody of student and employee personnel records. Student
2642 records shall be subject to the provisions of s. 1002.22.
2643 Employee records shall be subject to the provisions of s.
2644 1012.31.

2645 (1) The financial records and accounts of the Florida
2646 Virtual School shall be maintained under the direction of the
2647 board of trustees and under rules adopted by the State Board of
2648 Education for the uniform system of financial records and
2649 accounts for the schools of the state.

The Governor shall designate the initial chair of the board of trustees to serve a term of 4 years. Members of the board of trustees shall serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061. The board of trustees shall be a body corporate with all the powers of a body corporate and such authority as is needed for the proper operation and improvement of the Florida Virtual School. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and rules of the State Board of Education related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida Virtual School. Tangible personal property owned by the board of trustees shall be subject to the provisions of chapter 273.

2667 Section 63. For the purpose of incorporating the amendment
2668 made by this act to section 768.28, Florida Statutes, in a

10-01036B-26

20261366

2669 reference thereto, paragraph (1) of subsection (3) of section
2670 1002.55, Florida Statutes, is reenacted to read:

2671 1002.55 School-year prekindergarten program delivered by
2672 private prekindergarten providers.—

2673 (3) To be eligible to deliver the prekindergarten program,
2674 a private prekindergarten provider must meet each of the
2675 following requirements:

2676 (1) Notwithstanding paragraph (j), for a private
2677 prekindergarten provider that is a state agency or a subdivision
2678 thereof, as defined in s. 768.28(2), the provider must agree to
2679 notify the coalition of any additional liability coverage
2680 maintained by the provider in addition to that otherwise
2681 established under s. 768.28. The provider shall indemnify the
2682 coalition to the extent permitted by s. 768.28. Notwithstanding
2683 paragraph (j), for a child development program that is
2684 accredited by a national accrediting body and operates on a
2685 military installation that is certified by the United States
2686 Department of Defense, the provider may demonstrate liability
2687 coverage by affirming that it is subject to the Federal Tort
2688 Claims Act, 28 U.S.C. ss. 2671 et seq.

2689 Section 64. For the purpose of incorporating the amendment
2690 made by this act to section 768.28, Florida Statutes, in a
2691 reference thereto, subsection (10) of section 1002.83, Florida
2692 Statutes, is reenacted to read:

2693 1002.83 Early learning coalitions.—

2694 (10) For purposes of tort liability, each member or
2695 employee of an early learning coalition shall be governed by s.
2696 768.28.

2697 Section 65. For the purpose of incorporating the amendment

10-01036B-26

20261366

2698 made by this act to section 768.28, Florida Statutes, in a
2699 reference thereto, paragraph (p) of subsection (1) of section
2700 1002.88, Florida Statutes, is reenacted to read:

2701 1002.88 School readiness program provider standards;
2702 eligibility to deliver the school readiness program.—

2703 (1) To be eligible to deliver the school readiness program,
2704 a school readiness program provider must:

2705 (p) Notwithstanding paragraph (m), for a provider that is a
2706 state agency or a subdivision thereof, as defined in s.
2707 768.28(2), agree to notify the coalition of any additional
2708 liability coverage maintained by the provider in addition to
2709 that otherwise established under s. 768.28. The provider shall
2710 indemnify the coalition to the extent permitted by s. 768.28.
2711 Notwithstanding paragraph (m), for a child development program
2712 that is accredited by a national accrediting body and operates
2713 on a military installation that is certified by the United
2714 States Department of Defense, the provider may demonstrate
2715 liability coverage by affirming that it is subject to the
2716 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

2717 Section 66. For the purpose of incorporating the amendment
2718 made by this act to section 768.28, Florida Statutes, in a
2719 reference thereto, subsection (1) of section 1006.24, Florida
2720 Statutes, is reenacted to read:

2721 1006.24 Tort liability; liability insurance.—

2722 (1) Each district school board shall be liable for tort
2723 claims arising out of any incident or occurrence involving a
2724 school bus or other motor vehicle owned, maintained, operated,
2725 or used by the district school board to transport persons, to
2726 the same extent and in the same manner as the state or any of

10-01036B-26

20261366

2727 its agencies or subdivisions is liable for tort claims under s.
2728 768.28, except that the total liability to persons being
2729 transported for all claims or judgments of such persons arising
2730 out of the same incident or occurrence shall not exceed an
2731 amount equal to \$5,000 multiplied by the rated seating capacity
2732 of the school bus or other vehicle, as determined by rules of
2733 the State Board of Education, or \$100,000, whichever is greater.
2734 The provisions of s. 768.28 apply to all claims or actions
2735 brought against district school boards, as authorized in this
2736 subsection.

2737 Section 67. For the purpose of incorporating the amendment
2738 made by this act to section 768.28, Florida Statutes, in a
2739 reference thereto, paragraph (b) of subsection (2) of section
2740 1006.261, Florida Statutes, is reenacted to read:

2741 1006.261 Use of school buses for public purposes.—
2742 (2)

2743 (b) For purposes of liability for negligence, state
2744 agencies or subdivisions as defined in s. 768.28(2) shall be
2745 covered by s. 768.28. Every other corporation or organization
2746 shall provide liability insurance coverage in the minimum
2747 amounts of \$100,000 on any claim or judgment and \$200,000 on all
2748 claims and judgments arising from the same incident or
2749 occurrence.

2750 Section 68. This act shall take effect October 1, 2026.