

By the Committee on Rules; and Senators Brodeur and Rouson

595-03397-26

20261366c1

1                   A bill to be entitled  
2           An act relating to claims against the government;  
3           amending s. 768.28, F.S.; increasing the statutory  
4           limits on the liability of the state and its agencies  
5           and subdivisions for tort claims; revising exceptions  
6           relating to instituting actions on tort claims against  
7           the state or one of its agencies or subdivisions;  
8           revising the period after which the failure of certain  
9           entities to make a final disposition of a claim shall  
10          be deemed a final denial of the claim for certain  
11          purposes; revising the statute of limitations for tort  
12          claims against the state or one of its agencies or  
13          subdivisions and exceptions thereto; deleting obsolete  
14          language; making technical changes; providing  
15          applicability; amending ss. 29.0081, 39.8297, 343.811,  
16          and 944.713, F.S.; conforming cross references;  
17          conforming provisions to changes made by the act;  
18          reenacting ss. 45.061(5), 95.11(6)(f), 110.504(4),  
19          111.071(1)(a), 125.01015(2)(b), 163.01(3)(h) and  
20          (15)(k), 190.043, 213.015(13), 252.51, 252.89,  
21          252.944, 260.0125(2), 284.31, 284.38, 322.13(1)(b),  
22          337.19(1), 341.302(17), 343.811(3), 351.03(4)(c),  
23          373.1395(6), 375.251(3)(a), 381.0056(9), 393.075(3),  
24          394.9085(7), 395.1055(10)(g), 403.706(17)(c),  
25          409.175(15)(b), 409.993(1), (2)(a), and (3)(a),  
26          420.504(8), 455.221(3), 455.32(5), 456.009(3),  
27          456.076(15)(a), 471.038(3), 472.006(11)(b),  
28          497.167(7), 513.118(2), 548.046(1), 556.106(8),  
29          589.19(4)(e), 627.7491(3) and (4), 723.0611(2)(c),

595-03397-26

20261366c1

30 760.11(5), 766.1115(4), 766.112(2), 768.1355(3),  
31 768.1382(7), 768.295(4), 946.5026, 946.514(3),  
32 961.06(8), 984.09(3), 1002.33(12)(h), 1002.333(6)(b),  
33 1002.34(17), 1002.37(2), 1002.55(3)(1), 1002.83(10),  
34 1002.88(1)(p), 1006.24(1), and 1006.261(2)(b), F.S.,  
35 relating to offers of settlement; limitations other  
36 than for the recovery of real property; volunteer  
37 benefits; payment of judgments or settlements against  
38 certain public officers or employees; office of the  
39 sheriff; the Florida Interlocal Cooperation Act of  
40 1969; suits against community development districts;  
41 taxpayer rights; liability; tort liability; tort  
42 liability; limitation on liability of private  
43 landowners whose property is designated as part of the  
44 statewide system of greenways and trails; scope and  
45 types of coverages; effect of waiver of sovereign  
46 immunity; driver license examiners; suits by and  
47 against the Department of Transportation; rail  
48 program; power to assume indemnification and insurance  
49 obligations; railroad-highway grade-crossing warning  
50 signs and signals; limitation on liability of a water  
51 management district with respect to areas made  
52 available to the public for recreational purposes  
53 without charge; limitation on liability of persons  
54 making available to the public certain areas for  
55 recreational purposes without charge; school health  
56 services program; general liability coverage;  
57 behavioral provider liability; rules and enforcement;  
58 local government solid waste responsibilities;

595-03397-26

20261366c1

59 licensure of family foster homes, residential child-  
60 caring agencies, and child-placing agencies; lead  
61 agencies and subcontractor liability; the Florida  
62 Housing Finance Corporation; legal and investigative  
63 services; the Management Privatization Act; legal and  
64 investigative services; impaired practitioner  
65 programs; the Florida Engineers Management  
66 Corporation; the Department of Agriculture and  
67 Consumer Services; administrative matters; conduct on  
68 premises and refusal of service; physician's  
69 attendance at match; liability of the member operator,  
70 excavator, and system; creation of certain state  
71 forests, naming of certain state forests, and the  
72 Operation Outdoor Freedom Program; official law  
73 enforcement vehicles and motor vehicle insurance  
74 requirements; the Florida Mobile Home Relocation  
75 Corporation; administrative and civil remedies and  
76 construction; health care providers and creation of  
77 agency relationship with governmental contractors;  
78 comparative fault; the Florida Volunteer Protection  
79 Act; streetlights, security lights, and other similar  
80 illumination and limitation on liability; Strategic  
81 Lawsuits Against Public Participation (SLAPP)  
82 prohibited; sovereign immunity in tort actions;  
83 liability of corporation for inmate injuries;  
84 compensation for wrongful incarceration; punishment  
85 for contempt of court and alternative sanctions;  
86 charter schools; persistently low-performing schools;  
87 charter technical career centers; the Florida Virtual

595-03397-26

20261366c1

88 School; school-year prekindergarten program delivered  
89 by private prekindergarten providers; early learning  
90 coalitions; school readiness program provider  
91 standards and eligibility to deliver the school  
92 readiness program; tort liability and liability  
93 insurance; and use of school buses for public  
94 purposes, respectively, to incorporate changes made to  
95 s. 768.28, F.S., in references thereto; providing an  
96 effective date.

97

98 Be It Enacted by the Legislature of the State of Florida:

99

100 Section 1. Section 768.28, Florida Statutes, is amended to  
101 read:

102 768.28 Waiver of sovereign immunity in tort actions;  
103 recovery limits; civil liability for damages caused during a  
104 riot; limitation on attorney fees; statute of limitations;  
105 exclusions; indemnification; risk management programs.—

106 (1) In accordance with s. 13, Art. X of the State  
107 Constitution, the state, for itself and for its agencies or  
108 subdivisions, hereby waives sovereign immunity for liability for  
109 torts, but only to the extent specified in this section ~~act~~.  
110 Actions at law against the state or any of its agencies or  
111 subdivisions to recover damages in tort for money damages  
112 against the state or its agencies or subdivisions for injury or  
113 loss of property, personal injury, or death caused by the  
114 negligent or wrongful act or omission of any employee of the  
115 agency or subdivision while acting within the scope of the  
116 employee's office or employment under circumstances in which the

595-03397-26

20261366c1

117 state or such agency or subdivision, if a private person, would  
118 be liable to the claimant, in accordance with the general laws  
119 of this state, may be prosecuted subject to the limitations  
120 specified in this section ~~act~~. Any authorized ~~such~~ action may be  
121 brought in the county where the property in litigation is  
122 located or, if the affected agency or subdivision has an office  
123 in the ~~such~~ county for the transaction of its customary  
124 business, where the cause of action accrued. However, an ~~any~~  
125 ~~such~~ action against a state university board of trustees must  
126 ~~shall~~ be brought in the county in which that university's main  
127 campus is located or in the county in which the cause of action  
128 accrued if the university maintains ~~therein~~ a substantial  
129 presence for the transaction of its customary business in that  
130 county.

131 (2) As used in this act, "state agencies or subdivisions"  
132 include the executive departments, the Legislature, the judicial  
133 branch (including public defenders), and the independent  
134 establishments of the state, including state university boards  
135 of trustees; counties and municipalities; and corporations  
136 primarily acting as instrumentalities or agencies of the state,  
137 counties, or municipalities, including the Florida Space  
138 Authority.

139 (3) Except for a municipality and the Florida Space  
140 Authority, the affected agency or subdivision may, at its  
141 discretion, request the assistance of the Department of  
142 Financial Services in the consideration, adjustment, and  
143 settlement of any claim under this section ~~act~~.

144 (4) Subject to the provisions of this section, any state  
145 agency or subdivision may ~~shall have the right to~~ appeal any

595-03397-26

20261366c1

146 award, compromise, settlement, or determination to the court of  
147 appropriate jurisdiction.

148 (5) (a) The state and its agencies and subdivisions are  
149 ~~shall be~~ liable for tort claims in the same manner and to the  
150 same extent as a private individual under like circumstances,  
151 but liability may ~~shall~~ not include punitive damages or interest  
152 for the period before judgment. ~~Neither~~ The state and ~~nor~~ its  
153 agencies or subdivisions are not ~~shall be~~ liable to pay a claim  
154 or a judgment by any one person which exceeds the sum of  
155 \$350,000 ~~\$200,000~~ or any claim or judgment, or portions of a  
156 claim or judgment thereof, which, when totaled with all other  
157 claims or judgments paid by the state or its agencies or  
158 subdivisions arising out of the same incident or occurrence,  
159 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or  
160 judgments may be claimed and rendered in excess of these amounts  
161 and may be settled and paid pursuant to this section ~~act~~ up to  
162 \$350,000 ~~\$200,000~~ or \$500,000. ~~Any \$300,000, as the case may be,~~  
163 ~~and that~~ portion of the judgment that exceeds these amounts may  
164 be reported to the Legislature, but may be paid in part or in  
165 whole only by further act of the Legislature.

166 (b) Notwithstanding the limited waiver of sovereign  
167 immunity in paragraph (a) ~~provided herein~~, the state or an  
168 agency or subdivision of the state ~~thereof~~ may agree, within the  
169 limits of insurance coverage provided, to settle a claim made or  
170 a judgment rendered against it without further action by the  
171 Legislature, but the state or agency or subdivision of the state  
172 may ~~thereof shall~~ not be deemed to have waived any defense of  
173 sovereign immunity or to have increased the limits of its  
174 liability as a result of its obtaining insurance coverage for

595-03397-26

20261366c1

175 tortious acts in excess of the \$350,000 ~~\$200,000~~ or \$500,000  
176 ~~\$300,000~~ waiver in paragraph (a) ~~provided above~~.

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

181 (d) ~~(b)~~ A municipality has a duty to allow the municipal law  
182 enforcement agency to respond appropriately to protect persons  
183 and property during a riot or an unlawful assembly based on the  
184 availability of adequate equipment to its municipal law  
185 enforcement officers and relevant state and federal laws. If the  
186 governing body of a municipality or a person authorized by the  
187 governing body of the municipality breaches that duty, the  
188 municipality is civilly liable for any damages, including  
189 damages arising from personal injury, wrongful death, or  
190 property damages proximately caused by the municipality's breach  
191 of duty. The sovereign immunity recovery limits in paragraph (a)  
192 do not apply to an action under this paragraph.

193 (6) (a) An action may not be instituted on a claim against  
194 the state or one of its agencies or subdivisions unless the  
195 claimant presents the claim in writing to the appropriate  
196 agency, and also, except as to any claim against a municipality,  
197 county, or the Florida Space Authority, presents the ~~such~~ claim  
198 in writing to the Department of Financial Services, within 18  
199 months ~~3 years~~ after the ~~such~~ claim accrues and the Department  
200 of Financial Services or the appropriate agency denies the claim  
201 in writing; except that, if:

202 1. The ~~Such~~ claim is for contribution pursuant to s.  
203 768.31, it must be ~~so~~ presented within 6 months after the

595-03397-26

20261366c1

204 judgment against the tortfeasor seeking contribution has become  
205 final by lapse of time for appeal or after appellate review or,  
206 if there is no final ~~such~~ judgment, within 6 months after the  
207 tortfeasor seeking contribution has either discharged the common  
208 liability by payment or agreed, while the action is pending  
209 against her or him, to discharge the common liability; or

210 2. The ~~Such~~ action arises from a violation of s. 794.011  
211 involving a victim who was younger than 16 years of age at the  
212 time of the act, the claimant may present the claim in writing  
213 at any time. This subparagraph applies to any action other than  
214 an action that would have been time barred on or before October  
215 1, 2026 ~~is for wrongful death, the claimant must present the~~  
216 ~~claim in writing to the Department of Financial Services within~~  
217 ~~2 years after the claim accrues.~~

218 (b) For purposes of this section, the requirements of  
219 notice to the agency and denial of the claim pursuant to  
220 paragraph (a) are conditions precedent to maintaining an action  
221 but may ~~shall~~ not be deemed to be elements of the cause of  
222 action and do ~~shall~~ not affect the date on which the cause of  
223 action accrues.

224 (c) The claimant shall also provide to the agency the  
225 claimant's date and place of birth and social security number if  
226 the claimant is an individual, or a federal identification  
227 number if the claimant is not an individual. The claimant shall  
228 also state the case style, tribunal, the nature and amount of  
229 all adjudicated penalties, fines, fees, victim restitution fund,  
230 and other judgments in excess of \$200, whether imposed by a  
231 civil, criminal, or administrative tribunal, owed by the  
232 claimant to the state, its agency, officer or subdivision. If

595-03397-26

20261366c1

233 there exists no prior adjudicated unpaid claim in excess of  
234 \$200, the claimant shall so state.

235 (d) For purposes of this section, complete, accurate, and  
236 timely compliance with the requirements of paragraph (c) must  
237 ~~shall~~ occur before ~~prior to~~ settlement payment, close of  
238 discovery, or commencement of trial, whichever is earlier  
239 ~~sooner~~; provided the ability to plead setoff is not precluded by  
240 the delay. This setoff applies ~~shall apply~~ only against that  
241 part of the settlement or judgment payable to the claimant,  
242 minus claimant's reasonable attorney ~~attorney's~~ fees and costs.  
243 Incomplete or inaccurate disclosure of unpaid adjudicated claims  
244 due the state, or ~~its~~ agency, officer, or subdivision, may be  
245 excused by the court upon a showing by the preponderance of the  
246 evidence of the claimant's lack of knowledge of an adjudicated  
247 claim and reasonable inquiry by, or on behalf of, the claimant  
248 to obtain the information from public records. Unless the  
249 appropriate agency had actual notice of the information required  
250 to be disclosed by paragraph (c) in time to assert a setoff, an  
251 unexcused failure to disclose shall, upon hearing and order of  
252 court, cause the claimant to be liable for double the original  
253 undisclosed judgment and, upon further motion, the court shall  
254 enter judgment for the agency in that amount. Except as provided  
255 otherwise in this subsection, the failure of the Department of  
256 Financial Services or the appropriate agency to make final  
257 disposition of a claim within 4 ~~6~~ months after it is filed shall  
258 be deemed a final denial of the claim for purposes of this  
259 section. For purposes of this subsection, in medical malpractice  
260 actions and in wrongful death actions, the failure of the  
261 Department of Financial Services or the appropriate agency to

595-03397-26

20261366c1

262 make final disposition of a claim within 90 days after it is  
263 filed shall be deemed a final denial of the claim. The statute  
264 of limitations ~~for medical malpractice actions and wrongful~~  
265 ~~death actions~~ is tolled as to all prospective defendants for the  
266 period of time taken by the Department of Financial Services or  
267 the appropriate agency to deny the claim. ~~The provisions of This~~  
268 subsection does ~~de~~ not apply to ~~such~~ claims that ~~as~~ may be  
269 asserted by counterclaim pursuant to s. 768.14.

270 (7) In actions brought pursuant to this section, process  
271 must ~~shall~~ be served upon the head of the agency concerned and  
272 also, except as to a defendant municipality, county, or the  
273 Florida Space Authority, upon the Department of Financial  
274 Services. ~~and~~ The department or the agency served has ~~concerned~~  
275 ~~shall have~~ 30 days within which to file responsive pleadings  
276 ~~plead thereto~~.

277 (8) An ~~No~~ attorney may not charge, demand, receive, or  
278 collect, for services rendered, fees in excess of 25 percent of  
279 any funds recovered as a result of judgment or settlement.

280 (9) (a) An officer, employee, or agent of the state or of  
281 any of its subdivisions may not be held personally liable in  
282 tort or named as a party defendant in any action for any injury  
283 or damage suffered as a result of any act, event, or omission of  
284 action in the scope of her or his employment or function, unless  
285 the ~~such~~ officer, employee, or agent acted in bad faith or with  
286 malicious purpose or in a manner exhibiting wanton and willful  
287 disregard of human rights, safety, or property. However, the  
288 ~~such~~ officer, employee, or agent shall be considered an adverse  
289 witness in a tort action for any injury or damage suffered as a  
290 result of any act, event, or omission of action in the scope of

595-03397-26

20261366c1

291 her or his employment or function. The exclusive remedy for  
292 injury or damage suffered as a result of an act, event, or  
293 omission of an officer, employee, or agent of the state or any  
294 of its subdivisions or constitutional officers is by action  
295 against the governmental entity, or the head of such entity in  
296 her or his official capacity, or the constitutional officer of  
297 which the officer, employee, or agent is an employee, unless the  
298 ~~such~~ act or omission was committed in bad faith or with  
299 malicious purpose or in a manner exhibiting wanton and willful  
300 disregard of human rights, safety, or property. The state or its  
301 subdivisions are not liable in tort for the acts or omissions of  
302 an officer, employee, or agent committed while acting outside  
303 the course and scope of her or his employment or committed in  
304 bad faith or with malicious purpose or in a manner exhibiting  
305 wanton and willful disregard of human rights, safety, or  
306 property.

307 (b) As used in this subsection, the term:

308 1. "Employee" includes any volunteer firefighter.

309 2. "Officer, employee, or agent" includes, but is not  
310 limited to, any health care provider when providing services  
311 pursuant to s. 766.1115; any nonprofit independent college or  
312 university located and chartered in this state which owns or  
313 operates an accredited medical school, and its employees or  
314 agents, when providing patient services pursuant to paragraph  
315 (10)(f); any public defender or her or his employee or agent,  
316 including an assistant public defender or an investigator; and  
317 any member of a Child Protection Team, as defined in s. 39.01,  
318 or any member of a threat management team, as described in s.  
319 1006.07(7), when carrying out her or his duties as a team member

595-03397-26

20261366c1

320 under the control, direction, and supervision of the state or  
321 any of its agencies or subdivisions.

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

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

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

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

340 3. The pursuit is conducted by the officer pursuant to a  
341 written policy governing high-speed pursuit adopted by the  
342 employing agency. The policy must contain specific procedures  
343 concerning the proper method to initiate and terminate high-  
344 speed pursuit. The law enforcement officer must have received  
345 instructional training from the employing agency on the written  
346 policy governing high-speed pursuit.

347 (10) (a) Health care providers or vendors, or any of their  
348 employees or agents, that have contractually agreed to act as

595-03397-26

20261366c1

349 agents of the Department of Corrections to provide health care  
350 services to inmates of the state correctional system shall be  
351 considered agents of the State of Florida, Department of  
352 Corrections, for the purposes of this section, while acting  
353 within the scope of and pursuant to guidelines established in  
354 their contracts ~~said contract~~ or by rule. The contracts must  
355 ~~shall~~ provide for the indemnification of the state by the agent  
356 for any liabilities incurred up to the limits set out in this  
357 chapter.

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

362 (c) For purposes of this section, regional poison control  
363 centers created in accordance with s. 395.1027 and coordinated  
364 and supervised under the Division of Children's Medical Services  
365 Prevention and Intervention of the Department of Health, or any  
366 of their employees or agents, shall be considered agents of the  
367 State of Florida, Department of Health. Any contracts with  
368 poison control centers must provide, to the extent permitted by  
369 law, for the indemnification of the state by the agency for any  
370 liabilities incurred up to the limits set out in this chapter.

371 (d) For the purposes of this section, operators,  
372 dispatchers, and providers of security for rail services and  
373 rail facility maintenance providers in the South Florida Rail  
374 Corridor, or any of their employees or agents, performing ~~such~~  
375 services under contract with and on behalf of the South Florida  
376 Regional Transportation Authority or the Department of  
377 Transportation shall be considered agents of the state while

595-03397-26

20261366c1

378 acting within the scope of and pursuant to guidelines  
379 established in their contracts ~~said contract~~ or by rule.

380 (e) For purposes of this section, a professional firm that  
381 provides monitoring and inspection services of the work required  
382 for state roadway, bridge, or other transportation facility  
383 construction projects, or any employee of a firm performing  
384 those ~~such~~ services, is considered an agent of the Department of  
385 Transportation while acting within the scope of the firm's  
386 contract with the Department of Transportation to ensure that  
387 the project is constructed in conformity with the project's  
388 plans, specifications, and contract provisions. This paragraph  
389 applies to a professional firm that is in direct contract with  
390 the Department of Transportation, as well as any professional  
391 firm providing monitoring and inspection services as a  
392 consultant to the professional firm that is in direct contract  
393 with the Department of Transportation. Any contract with a  
394 professional firm must, to the extent permitted by law, provide  
395 for the indemnification of the Department of Transportation for  
396 any liability, including reasonable attorney fees, incurred up  
397 to the limits set out in this chapter to the extent caused by  
398 the negligence of the firm or its employees. This paragraph may  
399 not be construed as designating persons who provide monitoring  
400 and inspection services as employees or agents of the state for  
401 purposes of chapter 440. This paragraph is not applicable to the  
402 professional firm or its employees if involved in an accident  
403 while operating a motor vehicle. This paragraph is not  
404 applicable to a firm engaged by the Department of Transportation  
405 for the design or construction of a state roadway, bridge, or  
406 other transportation facility construction project or to its

595-03397-26

20261366c1

407 employees, agents, or subcontractors.

408 (f) For purposes of this section, any nonprofit independent  
409 college or university located and chartered in this state which  
410 owns or operates an accredited medical school, or any of its  
411 employees or agents, and which has agreed in an affiliation  
412 agreement or other contract to provide, or permit its employees  
413 or agents to provide, patient services as agents of a teaching  
414 hospital, is considered an agent of the teaching hospital while  
415 acting within the scope of and pursuant to guidelines  
416 established in the affiliation agreement or other contract. To  
417 the extent allowed by law, the contract must provide for the  
418 indemnification of the teaching hospital, up to the limits set  
419 out in this chapter, by the agent for any liability incurred  
420 which was caused by the negligence of the college or university  
421 or its employees or agents. The contract must also provide that  
422 those limited portions of the college, university, or medical  
423 school which are directly providing services pursuant to the  
424 contract and which are considered an agent of the teaching  
425 hospital for purposes of this section are deemed to be acting on  
426 behalf of a public agency as defined in s. 119.011(2).

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

428 a. "Employee or agent" means an officer, employee, agent,  
429 or servant of a nonprofit independent college or university  
430 located and chartered in this state which owns or operates an  
431 accredited medical school, including, but not limited to, the  
432 faculty of the medical school, any health care practitioner or  
433 licensee as defined in s. 456.001 for which the college or  
434 university is vicariously liable, and the staff or  
435 administrators of the medical school.

595-03397-26

20261366c1

436           b. "Patient services" means:

437           (I) Comprehensive health care services as defined in s.

438 641.19, including any related administrative service, provided

439 to patients in a teaching hospital;

440           (II) Training and supervision of interns, residents, and

441 fellows providing patient services in a teaching hospital; or

442           (III) Training and supervision of medical students in a

443 teaching hospital.

444           c. "Teaching hospital" means a teaching hospital as defined

445 in s. 408.07 which is owned or operated by the state, a county

446 or municipality, a public health trust, a special taxing

447 district, a governmental entity having health care

448 responsibilities, or a not-for-profit entity that operates such

449 facility as an agent of the state, or a political subdivision of

450 the state, under a lease or other contract.

451           2. The teaching hospital or the medical school, or its

452 employees or agents, must provide notice to each patient, or the

453 patient's legal representative, that the college or university

454 that owns or operates the medical school and the employees or

455 agents of that college or university are acting as agents of the

456 teaching hospital and that the exclusive remedy for injury or

457 damage suffered as the result of any act or omission of the

458 teaching hospital, the college or university that owns or

459 operates the medical school, or the employees or agents of the

460 college or university, while acting within the scope of duties

461 pursuant to the affiliation agreement or other contract with a

462 teaching hospital, is by commencement of an action pursuant to

463 the provisions of this section. This notice requirement may be

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

595-03397-26

20261366c1

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

468           (g) For the purposes of this section, the executive  
469 director of the Board of Nursing, when serving as the state  
470 administrator of the Nurse Licensure Compact pursuant to s.  
471 464.0095, and any administrator, officer, executive director,  
472 employee, or representative of the Interstate Commission of  
473 Nurse Licensure Compact Administrators, when acting within the  
474 scope of their employment, duties, or responsibilities in this  
475 state, are considered agents of the state. The commission shall  
476 pay any claims or judgments pursuant to this section and may  
477 maintain insurance coverage to pay any such claims or judgments.

478           (h) For purposes of this section, the individual appointed  
479 under s. 491.004(8) as the state's delegate on the Counseling  
480 Compact Commission, when serving in that capacity pursuant to s.  
481 491.017, and any administrator, officer, executive director,  
482 employee, or representative of the commission, when acting  
483 within the scope of his or her employment, duties, or  
484 responsibilities in this state, is considered an agent of the  
485 state. The commission shall pay any claims or judgments pursuant  
486 to this section and may maintain insurance coverage to pay those  
487 ~~any such~~ claims or judgments.

488           (i) For purposes of this section, the individual appointed  
489 under s. 490.004(7) as the state's commissioner on the  
490 Psychology Interjurisdictional Compact Commission, when serving  
491 in that capacity pursuant to s. 490.0075, and any administrator,  
492 officer, executive director, employee, or representative of the  
493 Psychology Interjurisdictional Compact Commission, when acting

595-03397-26

20261366c1

494 within the scope of his or her employment, duties, or  
495 responsibilities in this state, is considered an agent of the  
496 state. The commission shall pay any claims or judgments pursuant  
497 to this section and may maintain insurance coverage to pay those  
498 ~~any such~~ claims or judgments.

499 (j) For purposes of this section, the representative  
500 appointed from the Board of Medicine and the representative  
501 appointed from the Board of Osteopathic Medicine, when serving  
502 as commissioners of the Interstate Medical Licensure Compact  
503 Commission pursuant to s. 456.4501, and any administrator,  
504 officer, executive director, employee, or representative of the  
505 Interstate Medical Licensure Compact Commission, when acting  
506 within the scope of their employment, duties, or  
507 responsibilities in this state, are considered agents of the  
508 state. The commission shall pay any claims or judgments pursuant  
509 to this section and may maintain insurance coverage to pay those  
510 ~~any such~~ claims or judgments.

511 (k) For purposes of this section, the individuals appointed  
512 under s. 468.1135(4) as the state's delegates on the Audiology  
513 and Speech-Language Pathology Interstate Compact Commission,  
514 when serving in that capacity pursuant to s. 468.1335, and any  
515 administrator, officer, executive director, employee, or  
516 representative of the commission, when acting within the scope  
517 of his or her employment, duties, or responsibilities in this  
518 state, is considered an agent of the state. The commission shall  
519 pay any claims or judgments pursuant to this section and may  
520 maintain insurance coverage to pay those ~~any such~~ claims or  
521 judgments.

522 (l) For purposes of this section, the individual appointed

595-03397-26

20261366c1

523 under s. 486.023(5) as the state's delegate on the Physical  
524 Therapy Compact Commission, when serving in that capacity  
525 pursuant to s. 486.112, and any administrator, officer,  
526 executive director, employee, or representative of the Physical  
527 Therapy Compact Commission, when acting within the scope of his  
528 or her employment, duties, or responsibilities in this state, is  
529 considered an agent of the state. The commission shall pay any  
530 claims or judgments pursuant to this section and may maintain  
531 insurance coverage to pay those ~~any such~~ claims or judgments.

532 (11) (a) Providers or vendors, or any of their employees or  
533 agents, that have contractually agreed to act on behalf of the  
534 state as agents of the Department of Juvenile Justice to provide  
535 services to children in need of services, families in need of  
536 services, or juvenile offenders are, solely with respect to such  
537 services, agents of the state for purposes of this section while  
538 acting within the scope of and pursuant to guidelines  
539 established in the contract or by rule. A contract must provide  
540 for the indemnification of the state by the agent for any  
541 liabilities incurred up to the limits set out in this chapter.

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

545 (12) (a) A health care practitioner, as defined in s.  
546 456.001(4), who has contractually agreed to act as an agent of a  
547 state university board of trustees to provide medical services  
548 to a student athlete for participation in or as a result of  
549 intercollegiate athletics, to include team practices, training,  
550 and competitions, shall be considered an agent of the respective  
551 state university board of trustees, for the purposes of this

595-03397-26

20261366c1

552 section, while acting within the scope of and pursuant to  
553 guidelines established in that contract. The contracts must  
554 ~~shall~~ provide for the indemnification of the state by the agent  
555 for any liabilities incurred up to the limits set out in this  
556 chapter.

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

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

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

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

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

572 (c) Within the limitations provided in s. 95.11(5) for an  
573 action for damages arising from medical malpractice or wrongful  
574 death.

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

580 (e) Within 4 years for any other action not specified in

595-03397-26

20261366c1

581 this subsection ~~4 years~~ after the ~~such~~ claim accrues, ~~except~~  
582 ~~that an action for contribution must be commenced within the~~  
583 ~~limitations provided in s. 768.31(4), and an action for damages~~  
584 ~~arising from medical malpractice or wrongful death must be~~  
585 ~~commenced within the limitations for such actions in s.~~  
586 ~~95.11(5).~~

587 (15) An ~~No~~ action may not be brought against the state or  
588 any of its agencies or subdivisions by anyone who unlawfully  
589 participates in a riot, unlawful assembly, public demonstration,  
590 mob violence, or civil disobedience if the claim arises out of  
591 the ~~such~~ riot, unlawful assembly, public demonstration, mob  
592 violence, or civil disobedience. Nothing in This subsection does  
593 not ~~act shall~~ abridge traditional immunities pertaining to  
594 statements made in court.

595 (16) (a) The state and its agencies and subdivisions are  
596 authorized to be self-insured, to enter into risk management  
597 programs, or to purchase liability insurance for whatever  
598 coverage they may choose, or to have any combination thereof, in  
599 anticipation of any claim, judgment, and claims bill that ~~which~~  
600 they may be liable to pay pursuant to this section. Agencies or  
601 subdivisions, and sheriffs, that are subject to homogeneous  
602 risks may purchase insurance jointly or may join together as  
603 self-insurers to provide other means of protection against tort  
604 claims, any charter provisions or laws to the contrary  
605 notwithstanding.

606 (b) Claims files maintained by any risk management program  
607 administered by the state, its agencies, and its subdivisions  
608 are confidential and exempt from the provisions of s. 119.07(1)  
609 and s. 24(a), Art. I of the State Constitution until termination

595-03397-26

20261366c1

610 of all litigation and settlement of all claims arising out of  
611 the same incident, although portions of the claims files may  
612 remain exempt, as otherwise provided by law. Claims files  
613 records may be released to other governmental agencies upon  
614 written request and demonstration of need. Any, ~~such~~ records  
615 held by the receiving agency remain confidential and exempt as  
616 provided ~~for~~ in this paragraph.

617 (c) Portions of meetings and proceedings conducted pursuant  
618 to any risk management program administered by the state, its  
619 agencies, or its subdivisions, which relate solely to the  
620 evaluation of claims filed with the risk management program or  
621 which relate solely to offers of compromise of claims filed with  
622 the risk management program are exempt from the provisions of s.  
623 286.011 and s. 24(b), Art. I of the State Constitution. Until  
624 termination of all litigation and settlement of all claims  
625 arising out of the same incident, persons privy to discussions  
626 pertinent to the evaluation of a filed claim are ~~shall~~ not ~~be~~  
627 subject to subpoena in any administrative or civil proceeding  
628 with regard to the content of those discussions.

629 (d) Minutes of the meetings and proceedings of any risk  
630 management program administered by the state, its agencies, or  
631 its subdivisions, which relate solely to the evaluation of  
632 claims filed with the risk management program or which relate  
633 solely to offers of compromise of claims filed with the risk  
634 management program are exempt from ~~the provisions of~~ s.  
635 119.07(1) and s. 24(a), Art. I of the State Constitution until  
636 termination of all litigation and settlement of all claims  
637 arising out of the same incident.

638 (17) ~~This section, as amended by chapter 81-317, Laws of~~

595-03397-26

20261366c1

639 ~~Florida, shall apply only to causes of actions which accrue on~~  
 640 ~~or after October 1, 1981.~~

641 ~~(18)~~ A ~~No~~ provision of this section, or of any other  
 642 section of the Florida Statutes, whether read separately or in  
 643 conjunction with any other provision, may not ~~shall~~ be construed  
 644 to waive the immunity of the state or any of its agencies from  
 645 suit in federal court, as that ~~such~~ immunity is guaranteed by  
 646 the Eleventh Amendment to the Constitution of the United States,  
 647 unless the ~~such~~ waiver is explicitly and definitely stated to be  
 648 a waiver of the immunity of the state and its agencies from suit  
 649 in federal court. This subsection may ~~shall~~ not be construed to  
 650 mean that the state has at any time previously waived, by  
 651 implication, its immunity, or that of any of its agencies, from  
 652 suit in federal court through any statute in existence before  
 653 ~~prior to~~ June 24, 1984.

654 ~~(18)(19)~~ ~~Neither~~ The state or an ~~nor any~~ agency or  
 655 subdivision of the state does not waive ~~waives~~ any defense of  
 656 sovereign immunity, or increase ~~increases~~ the limits of its  
 657 liability, upon entering into a contract ~~contractual~~  
 658 ~~relationship~~ with another agency or subdivision of the state.  
 659 The ~~Such a~~ contract may ~~must~~ not contain any provision that  
 660 requires one party to indemnify or insure the other party for  
 661 the other party's negligence or to assume any liability for the  
 662 other party's negligence. This does not preclude a party from  
 663 requiring a nongovernmental entity to provide ~~such~~  
 664 indemnification or insurance. The restrictions of this  
 665 subsection do not prohibit ~~prevent~~ a regional water supply  
 666 authority from indemnifying and assuming the liabilities of its  
 667 member governments for obligations arising from past acts or

595-03397-26

20261366c1

668 omissions at or with property acquired from a member government  
669 by the authority and arising from the acts or omissions of the  
670 authority in performing activities contemplated by an interlocal  
671 agreement. The ~~Such~~ indemnification may not be considered to  
672 increase or otherwise waive the limits of liability to third-  
673 party claimants established by this section.

674 (19) ~~(20)~~ Every municipality, and any of its agencies ~~agency~~  
675 ~~thereof,~~ may ~~is authorized to undertake to~~ indemnify those  
676 employees who ~~that~~ are exposed to personal liability pursuant to  
677 the Clean Air Act Amendments of 1990, 42 U.S.C.A. ss. 7401 et  
678 seq., and all rules and regulations adopted to implement that  
679 act, for acts performed within the course and scope of their  
680 employment with the municipality or its agency, including, but  
681 not limited to, indemnification pertaining to the holding,  
682 transfer, or disposition of allowances allocated to the  
683 municipality's or its agency's electric generating units, and  
684 the monitoring, submission, certification, and compliance with  
685 permits, permit applications, records, compliance plans, and  
686 reports for those units, when those ~~such~~ acts are performed  
687 within the course and scope of their employment with the  
688 municipality or its agency. The authority to indemnify under  
689 this section covers every act by an employee which is ~~when such~~  
690 ~~act~~ is performed within the course and scope of her or his  
691 employment with the municipality or its agency, but does not  
692 cover any act of willful misconduct or any intentional or  
693 knowing violation of any law by the employee. The authority to  
694 indemnify under this section includes, but is not limited to,  
695 the authority to pay any fine and provide legal representation  
696 in any action.

595-03397-26

20261366c1

697           Section 2. This act applies to causes of action that accrue  
698 on or after October 1, 2026.

699           Section 3. Paragraph (b) of subsection (2) of section  
700 29.0081, Florida Statutes, is amended to read:

701           29.0081 County funding of additional court personnel.—

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

703           (b) The personnel whose employment is funded under the  
704 agreement are hired, supervised, managed, and fired by personnel  
705 of the judicial circuit. The county shall be considered the  
706 employer for purposes of s. 440.10 and chapter 443. Employees  
707 funded by the county under this section and other county  
708 employees may be aggregated for purposes of a flexible benefits  
709 plan pursuant to s. 125 of the Internal Revenue Code of 1986.  
710 The judicial circuit shall supervise the personnel whose  
711 employment is funded under the agreement; be responsible for  
712 compliance with all requirements of federal and state employment  
713 laws, including, but not limited to, Title VII of the Civil  
714 Rights Act of 1964, Title I of the Americans with Disabilities  
715 Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair  
716 Labor Standards Act, chapters 447 and 760, and ss. 112.3187,  
717 440.105, and 440.205; and fully indemnify the county from any  
718 liability under such laws, as authorized by s. 768.28(18) ~~s.~~  
719 ~~768.28(19)~~, to the extent such liability is the result of the  
720 acts or omissions of the judicial circuit or its agents or  
721 employees.

722           Section 4. Paragraph (b) of subsection (2) of section  
723 39.8297, Florida Statutes, is amended to read:

724           39.8297 County funding for guardian ad litem employees.—

725           (2) The agreement, at a minimum, must provide that:

595-03397-26

20261366c1

726 (b) The persons who are employed will be hired, supervised,  
727 managed, and terminated by the executive director of the  
728 Statewide Guardian ad Litem Office. The statewide office is  
729 responsible for compliance with all requirements of federal and  
730 state employment laws, and shall fully indemnify the county from  
731 any liability under such laws, as authorized by s. 768.28(18) ~~s.~~  
732 ~~768.28(19)~~, to the extent such liability is the result of the  
733 acts or omissions of the Statewide Guardian ad Litem Office or  
734 its agents or employees.

735 Section 5. Paragraph (a) of subsection (3) of section  
736 343.811, Florida Statutes, is amended to read:

737 343.811 Power to assume indemnification and insurance  
738 obligations.—

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

742 (a) Assume obligations pursuant to the following:

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

746 (I) Any liability, cost, and expense, including, but not  
747 limited to, the agency's passengers and other rail corridor  
748 invitees in, on, or about the Coastal Link corridor, regardless  
749 of whether the loss, damage, destruction, injury, or death  
750 giving rise to any such liability, cost, or expense is caused in  
751 whole or in part, and to whatever nature or degree, by the  
752 fault, failure, negligence, misconduct, nonfeasance, or  
753 misfeasance of such freight rail operator, its successors, or  
754 its officers, agents, and employees, or any other person or

595-03397-26

20261366c1

755 persons whomsoever.

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

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

763 (I) Any liability, cost, and expense, including, but not  
764 limited to, the agency's passengers and rail corridor invitees  
765 in the Coastal Link corridor, regardless of whether the loss,  
766 damage, destruction, injury, or death giving rise to any such  
767 liability, cost, or expense is caused in whole or in part, and  
768 to whatever nature or degree, by the fault, failure, negligence,  
769 misconduct, nonfeasance, or misfeasance of Brightline, its  
770 successors, or its officers, agents, and employees, or any other  
771 person or persons whomsoever.

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

776 2. The assumption of liability of the agency by contract  
777 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may  
778 not in any instance exceed the following parameters of  
779 allocation of risk:

780 a. The agency may be solely responsible for any loss,  
781 injury, or damage to the agency's passengers, or rail corridor  
782 invitees, third parties, or trespassers, regardless of  
783 circumstances or cause, subject to sub-subparagraph b. and

595-03397-26

20261366c1

784 subparagraphs 3., 4., and 5.

785       b.(I) In the event of a limited covered accident caused by  
786 FECR, the authority of an agency to protect, defend, and  
787 indemnify FECR for all liability, cost, and expense, including  
788 punitive or exemplary damages, in excess of the self-insurance  
789 retention amount exists only if FECR agrees, with respect to  
790 such limited covered accident caused by FECR, to protect,  
791 defend, and indemnify the agency for the amount of the self-  
792 insurance retention amount.

793       (II) In the event of a limited covered accident caused by  
794 Brightline, the authority of an agency to protect, defend, and  
795 indemnify Brightline for all liability, cost, and expense,  
796 including punitive or exemplary damages, in excess of the self-  
797 insurance retention amount exists only if Brightline agrees,  
798 with respect to such limited covered accident, to protect,  
799 defend, and indemnify the agency for the amount of the self-  
800 insurance retention amount.

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

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

805       b. The train is FECR's train, including an incident with  
806 trespassers or at-grade crossings, FECR is solely responsible  
807 for any loss, injury, or damage, except for the agency's  
808 passengers and other rail corridor invitees, which are the  
809 responsibility of the agency, and Brightline's passengers and  
810 other rail corridor invitees, which are the responsibility of  
811 Brightline.

812       c. The train is Brightline's train, including an incident

595-03397-26

20261366c1

813 with trespassers or at-grade crossings, Brightline is solely  
814 responsible for any loss, injury, or damage, except for the  
815 agency's passengers or rail corridor invitees, which are the  
816 responsibility of the agency, and FECR's rail corridor invitees,  
817 which are the responsibility of FECR.

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

820 a. Its property; passengers; employees, excluding employees  
821 who are, at the time of the incident, rail corridor invitees of  
822 another operator; and other rail corridor invitees.

823 b. Its proportionate share of any loss or damage to the  
824 joint infrastructure.

825 c. Its proportionate share of any loss, injury, or damage  
826 to:

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

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

833 5. Any such contractual duty to protect, defend, indemnify,  
834 and hold harmless FECR or Brightline with respect to claims by  
835 rail passengers shall expressly include a specific cap on the  
836 amount of the contractual duty, which amount may not exceed \$323  
837 million per occurrence and shall be adjusted so that the per-  
838 occurrence insurance requirement is equal to the aggregate  
839 allowable awards to all rail passengers, against all defendants,  
840 for all claims, including claims for punitive damages, arising  
841 from a single accident or incident in accordance with 49 U.S.C.

595-03397-26

20261366c1

842 s. 28103, or any successor provision, without prior legislative  
843 approval.

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

848  
849 Neither the assumption by contract to protect, defend,  
850 indemnify, and hold harmless; the purchase of insurance; nor the  
851 establishment of a self-insurance retention fund shall be deemed  
852 to be a waiver of any defense of sovereign immunity for tort  
853 claims or deemed to increase the limits of the agency's  
854 liability for tort claims as provided in s. 768.28.

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

857 944.713 Insurance against liability.—

858 (2) The contract shall provide for indemnification of the  
859 state by the private vendor for any liabilities incurred up to  
860 the limits provided under s. 768.28(5). The contract shall  
861 provide that the private vendor, or the insurer of the private  
862 vendor, is liable to pay any claim or judgment for any one  
863 person which does not exceed the applicable maximum amount  
864 provided in s. 768.28(5) ~~sum of \$100,000 or any claim or~~  
865 ~~judgment, or portions thereof, which, when totaled with all~~  
866 ~~other claims or judgments arising out of the same incident or~~  
867 ~~occurrence, does not exceed the sum of \$200,000. In addition,~~  
868 the contractor must agree to defend, hold harmless, and  
869 indemnify the department against any and all actions, claims,  
870 damages and losses, including costs and attorney's fees.

595-03397-26

20261366c1

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

875 45.061 Offers of settlement.—

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

881 Section 8. For the purpose of incorporating the amendment  
882 made by this act to section 768.28, Florida Statutes, in a  
883 reference thereto, paragraph (f) of subsection (6) of section  
884 95.11, Florida Statutes, is reenacted to read:

885 95.11 Limitations other than for the recovery of real  
886 property.—Actions other than for recovery of real property shall  
887 be commenced as follows:

888 (6) WITHIN ONE YEAR.—

889 (f) Except for actions described in subsection (9), or a  
890 petition challenging a criminal conviction, all petitions;  
891 extraordinary writs; tort actions, including those under s.  
892 768.28(14); or other actions which concern any condition of  
893 confinement of a prisoner filed by or on behalf of a prisoner as  
894 defined in s. 57.085. Any petition, writ, or action brought  
895 under this paragraph must be commenced within 1 year after the  
896 time the incident, conduct, or conditions occurred or within 1  
897 year after the time the incident, conduct, or conditions were  
898 discovered, or should have been discovered.

899 Section 9. For the purpose of incorporating the amendment

595-03397-26

20261366c1

900 made by this act to section 768.28, Florida Statutes, in a  
901 reference thereto, subsection (4) of section 110.504, Florida  
902 Statutes, is reenacted to read:

903 110.504 Volunteer benefits.—

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

907 Section 10. For the purpose of incorporating the amendment  
908 made by this act to section 768.28, Florida Statutes, in a  
909 reference thereto, paragraph (a) of subsection (1) of section  
910 111.071, Florida Statutes, is reenacted to read:

911 111.071 Payment of judgments or settlements against certain  
912 public officers or employees.—

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

917 (a) Any final judgment, including damages, costs, and  
918 attorney's fees, arising from a complaint for damages or injury  
919 suffered as a result of any act or omission of action of any  
920 officer, employee, or agent in a civil or civil rights lawsuit  
921 described in s. 111.07. If the civil action arises under s.  
922 768.28 as a tort claim, the limitations and provisions of s.  
923 768.28 governing payment shall apply. If the action is a civil  
924 rights action arising under 42 U.S.C. s. 1983, or similar  
925 federal statutes, payments for the full amount of the judgment  
926 may be made unless the officer, employee, or agent has been  
927 determined in the final judgment to have caused the harm  
928 intentionally.

595-03397-26

20261366c1

929 Section 11. For the purpose of incorporating the amendment  
930 made by this act to section 768.28, Florida Statutes, in a  
931 reference thereto, paragraph (b) of subsection (2) of section  
932 125.01015, Florida Statutes, is reenacted to read:

933 125.01015 Office of the sheriff.—

934 (2) To ensure the successful transfer of the exclusive  
935 policing responsibility and authority to the sheriff in a  
936 county, as defined in s. 125.011(1), the board of county  
937 commissioners shall:

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

939 1. Provide funding for all of the necessary staff and  
940 office space for the sheriff-elect to establish an independent  
941 office of the sheriff, so that the office may effectively  
942 operate and perform all of the functions required by general law  
943 when the sheriff-elect takes office.

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

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

953 4. Unless otherwise transferable based on existing surety  
954 bonds for the sheriff's deputies, provide funding for and  
955 facilitate procurement of the required surety bonds for deputy  
956 sheriffs pursuant to s. 30.09, so that such bonds are in place  
957 when the sheriff-elect takes office.

595-03397-26

20261366c1

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

960           6. Notwithstanding any provision to the contrary, for a  
961 term commencing on January 7, 2025, and ending on or after  
962 September 30, 2028, provide the sheriff-elect taking office  
963 with, and require the sheriff-elect taking office to use, not  
964 less than the substantially and materially same support  
965 services, facilities, office space, and information technology  
966 infrastructure provided to county offices or departments  
967 performing the duties to be performed by the sheriff-elect upon  
968 taking office in the 1-year period before he or she takes  
969 office.

970           a. As used in this subparagraph, the term "support  
971 services" includes:

972           (I) Property and facilities, and the management and  
973 maintenance for such property and facilities.

974           (II) Communications infrastructure, including telephone and  
975 Internet connectivity.

976           (III) Risk management, including processing, adjusting, and  
977 payment of all claims and demands, including those made under s.  
978 768.28. The county shall provide the sheriff with all required  
979 general liability, property, and other insurance coverage  
980 through its self-insurance program, a self-insurance risk pool,  
981 or commercial insurance. If the county provides insurance  
982 through a self-insurance program, the county must also provide  
983 the sheriff with commercial stop-loss coverage in an amount and  
984 with a self-insured retention agreed upon by the sheriff and the  
985 county.

986           (IV) Legal representation and advice through the office of

595-03397-26

20261366c1

987 the county attorney for all claims, demands, and causes of  
988 action brought against the sheriff, his or her deputies, or  
989 other personnel in their official and individual capacities,  
990 while acting in their official and individual capacities,  
991 including any required outside counsel due to conflicts of  
992 interest. This sub-sub-subparagraph does not prohibit the  
993 sheriff from employing or retaining his or her own legal  
994 representation as he or she deems necessary.

995 (V) Purchasing and procurement services using procedures  
996 under the laws and ordinances applicable to the county for  
997 purchases requiring competitive procurement.

998 (VI) Budget and fiscal software and budget development  
999 services.

1000 (VII) Human resource services, including, but not limited  
1001 to, facilitation of the hiring process, including employee  
1002 applicant screening and employee applicant background checks,  
1003 and employee benefit administration. The county may provide  
1004 human resource services to the sheriff. However, the sheriff is  
1005 the employer of his or her employees, and the sheriff retains  
1006 full and complete control and authority over the hiring of his  
1007 or her employees and the terms and conditions of employment,  
1008 including employee discipline and termination of employment. The  
1009 provision of human resource services by the county to the  
1010 sheriff does not create a joint-employer relationship. The  
1011 sheriff's employees shall remain members of the county's health  
1012 insurance and workers' compensation plans for at least the term  
1013 set forth in this subparagraph.

1014 (VIII) Fleet management, including procurement of all  
1015 vehicles and other mobile assets such as boats and aircraft, and

595-03397-26

20261366c1

1016 all vehicle repair and maintenance.

1017 b. As used in this subparagraph, the term "information  
1018 technology infrastructure" includes:

1019 (I) All hardware, including computers.

1020 (II) Budget and fiscal software, including payroll and  
1021 purchasing software.

1022 (III) Computer-aided dispatch.

1023 c. Under a cost allocation plan agreed to by the county and  
1024 the sheriff, the sheriff shall pay the county for such support  
1025 services and information technology infrastructure from his or  
1026 her general fund budget, except for any support services and  
1027 information technology infrastructure costs that general law  
1028 otherwise and expressly requires the county to fund outside the  
1029 sheriff's budget.

1030 d. To satisfy compliance with this subsection and to  
1031 establish the office of the sheriff in a manner that minimizes  
1032 unnecessary financial expenditures, the county and the sheriff  
1033 shall execute an interlocal agreement addressing the  
1034 requirements of this subsection and other expenditures,  
1035 including an appropriate phase-in period for identification of  
1036 the sheriff's assets with the sheriff's markings to minimize the  
1037 cost to taxpayers. The interlocal agreement shall have a term  
1038 that ends no earlier than September 30, 2028, and may be  
1039 amended, renewed, extended, or newly adopted at any time  
1040 following the expiration or termination of the agreement. After  
1041 the initial period ending no earlier than September 30, 2028, an  
1042 interlocal agreement may be entered into between the county and  
1043 the sheriff which provides for the same or different  
1044 requirements as set forth in this subsection.

595-03397-26

20261366c1

1045 Section 12. For the purpose of incorporating the amendment  
1046 made by this act to section 768.28, Florida Statutes, in  
1047 references thereto, paragraph (h) of subsection (3) and  
1048 paragraph (k) of subsection (15) of section 163.01, Florida  
1049 Statutes, are reenacted to read:

1050 163.01 Florida Interlocal Cooperation Act of 1969.—

1051 (3) As used in this section:

1052 (h) "Local government liability pool" means a reciprocal  
1053 insurer as defined in s. 629.011 or any self-insurance program  
1054 created pursuant to s. 768.28(16), formed and controlled by  
1055 counties or municipalities of this state to provide liability  
1056 insurance coverage for counties, municipalities, or other public  
1057 agencies of this state, which pool may contract with other  
1058 parties for the purpose of providing claims administration,  
1059 processing, accounting, and other administrative facilities.

1060 (15) Notwithstanding any other provision of this section or  
1061 of any other law except s. 361.14, any public agency of this  
1062 state which is an electric utility, or any separate legal entity  
1063 created pursuant to the provisions of this section, the  
1064 membership of which consists only of electric utilities, and  
1065 which exercises or proposes to exercise the powers granted by  
1066 part II of chapter 361, the Joint Power Act, may exercise any or  
1067 all of the following powers:

1068 (k) The limitations on waiver in the provisions of s.  
1069 768.28 or any other law to the contrary notwithstanding, the  
1070 Legislature, in accordance with s. 13, Art. X of the State  
1071 Constitution, hereby declares that any such legal entity or any  
1072 public agency of this state that participates in any electric  
1073 project waives its sovereign immunity to:

595-03397-26

20261366c1

- 1074 1. All other persons participating therein; and  
1075 2. Any person in any manner contracting with a legal entity  
1076 of which any such public agency is a member, with relation to:  
1077 a. Ownership, operation, or any other activity set forth in  
1078 sub-subparagraph (b)2.d. with relation to any electric project;  
1079 or  
1080 b. The supplying or purchasing of services, output,  
1081 capacity, energy, or any combination thereof.

1082 Section 13. For the purpose of incorporating the amendment  
1083 made by this act to section 768.28, Florida Statutes, in a  
1084 reference thereto, section 190.043, Florida Statutes, is  
1085 reenacted to read:

1086 190.043 Suits against the district.—Any suit or action  
1087 brought or maintained against the district for damages arising  
1088 out of tort, including, without limitation, any claim arising  
1089 upon account of an act causing an injury or loss of property,  
1090 personal injury, or death, shall be subject to the limitations  
1091 provided in s. 768.28.

1092 Section 14. For the purpose of incorporating the amendment  
1093 made by this act to section 768.28, Florida Statutes, in a  
1094 reference thereto, subsection (13) of section 213.015, Florida  
1095 Statutes, is reenacted to read:

1096 213.015 Taxpayer rights.—There is created a Florida  
1097 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
1098 and property of Florida taxpayers are adequately safeguarded and  
1099 protected during tax assessment, collection, and enforcement  
1100 processes administered under the revenue laws of this state. The  
1101 Taxpayer's Bill of Rights compiles, in one document, brief but  
1102 comprehensive statements which explain, in simple, nontechnical

595-03397-26

20261366c1

1103 terms, the rights and obligations of the Department of Revenue  
1104 and taxpayers. Section 192.0105 provides additional rights  
1105 afforded to payors of property taxes and assessments. The rights  
1106 afforded taxpayers to ensure that their privacy and property are  
1107 safeguarded and protected during tax assessment and collection  
1108 are available only insofar as they are implemented in other  
1109 parts of the Florida Statutes or rules of the Department of  
1110 Revenue. The rights so guaranteed Florida taxpayers in the  
1111 Florida Statutes and the departmental rules are:

1112 (13) The right to an action at law within the limitations  
1113 of s. 768.28, relating to sovereign immunity, to recover damages  
1114 against the state or the Department of Revenue for injury caused  
1115 by the wrongful or negligent act or omission of a department  
1116 officer or employee (see s. 768.28).

1117 Section 15. For the purpose of incorporating the amendment  
1118 made by this act to section 768.28, Florida Statutes, in a  
1119 reference thereto, section 252.51, Florida Statutes, is  
1120 reenacted to read:

1121 252.51 Liability.—Any person or organization, public or  
1122 private, owning or controlling real estate or other premises who  
1123 voluntarily and without compensation, other than payment or  
1124 reimbursement of costs and expenses, grants a license or  
1125 privilege or otherwise permits the designation by the local  
1126 emergency management agency or use of the whole or any part of  
1127 such real estate or premises for the purpose of sheltering  
1128 persons during an actual, impending, mock, or practice  
1129 emergency, together with her or his successor in interest, if  
1130 any, shall not be liable for the death of, or injury to, any  
1131 person on or about such real estate or premises during the

595-03397-26

20261366c1

1132 actual, impending, mock, or practice emergency, or for loss of,  
1133 or damage to, the property of such person, solely by reason or  
1134 as a result of such license, privilege, designation, or use,  
1135 unless the gross negligence or the willful and wanton misconduct  
1136 of such person owning or controlling such real estate or  
1137 premises or her or his successor in interest is the proximate  
1138 cause of such death, injury, loss, or damage occurring during  
1139 such sheltering period. Any such person or organization who  
1140 provides such shelter space for compensation shall be deemed to  
1141 be an instrumentality of the state or its applicable agency or  
1142 subdivision for the purposes of s. 768.28.

1143 Section 16. For the purpose of incorporating the amendment  
1144 made by this act to section 768.28, Florida Statutes, in a  
1145 reference thereto, section 252.89, Florida Statutes, is  
1146 reenacted to read:

1147 252.89 Tort liability.—The commission and the committees  
1148 shall be state agencies, and the members of the commission and  
1149 committees shall be officers, employees, or agents of the state  
1150 for the purposes of s. 768.28.

1151 Section 17. For the purpose of incorporating the amendment  
1152 made by this act to section 768.28, Florida Statutes, in a  
1153 reference thereto, section 252.944, Florida Statutes, is  
1154 reenacted to read:

1155 252.944 Tort liability.—The commission and the committees  
1156 are state agencies, and the members of the commission and  
1157 committees are officers, employees, or agents of the state for  
1158 the purpose of s. 768.28.

1159 Section 18. For the purpose of incorporating the amendment  
1160 made by this act to section 768.28, Florida Statutes, in a

595-03397-26

20261366c1

1161 reference thereto, subsection (2) of section 260.0125, Florida  
1162 Statutes, is reenacted to read:

1163       260.0125 Limitation on liability of private landowners  
1164 whose property is designated as part of the statewide system of  
1165 greenways and trails.—

1166       (2) Any private landowner who consents to designation of  
1167 his or her land as part of the statewide system of greenways and  
1168 trails pursuant to s. 260.016(2)(d) without compensation shall  
1169 be considered a volunteer, as defined in s. 110.501, and shall  
1170 be covered by state liability protection pursuant to s. 768.28,  
1171 including s. 768.28(9).

1172       Section 19. For the purpose of incorporating the amendment  
1173 made by this act to section 768.28, Florida Statutes, in a  
1174 reference thereto, section 284.31, Florida Statutes, is  
1175 reenacted to read:

1176       284.31 Scope and types of coverages; separate accounts.—The  
1177 Insurance Risk Management Trust Fund must, unless specifically  
1178 excluded by the Department of Financial Services, cover all  
1179 departments of the State of Florida and their employees, agents,  
1180 and volunteers and must provide separate accounts for workers'  
1181 compensation, general liability, fleet automotive liability,  
1182 federal civil rights actions under 42 U.S.C. s. 1983 or similar  
1183 federal statutes, state agency firefighter cancer benefits  
1184 payable under s. 112.1816(2), and court-awarded attorney fees in  
1185 other proceedings against the state except for such awards in  
1186 eminent domain or for inverse condemnation or for awards by the  
1187 Public Employees Relations Commission. Unless specifically  
1188 excluded by the Department of Financial Services, the Insurance  
1189 Risk Management Trust Fund must provide fleet automotive

595-03397-26

20261366c1

1190 liability coverage to motor vehicles titled to the state, or to  
1191 any department of the state, when such motor vehicles are used  
1192 by community transportation coordinators performing, under  
1193 contract to the appropriate department of the state, services  
1194 for the transportation disadvantaged under part I of chapter  
1195 427. Such fleet automotive liability coverage is primary and is  
1196 subject to s. 768.28 and parts II and III of chapter 284, and  
1197 applicable rules adopted thereunder, and the terms and  
1198 conditions of the certificate of coverage issued by the  
1199 Department of Financial Services.

1200 Section 20. For the purpose of incorporating the amendment  
1201 made by this act to section 768.28, Florida Statutes, in  
1202 references thereto, section 284.38, Florida Statutes, is  
1203 reenacted to read:

1204 284.38 Waiver of sovereign immunity; effect.—The insurance  
1205 programs developed herein shall provide limits as established by  
1206 the provisions of s. 768.28 if a tort claim. The limits provided  
1207 in s. 768.28 shall not apply to a civil rights action arising  
1208 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a  
1209 pending or future claim or judgment arising under any of said  
1210 statutes may be made upon this act becoming a law, unless the  
1211 officer, employee, or agent has been determined in the final  
1212 judgment to have caused the harm intentionally; however, the  
1213 fund is authorized to pay all other court-ordered attorney's  
1214 fees as provided under s. 284.31.

1215 Section 21. For the purpose of incorporating the amendment  
1216 made by this act to section 768.28, Florida Statutes, in a  
1217 reference thereto, paragraph (b) of subsection (1) of section  
1218 322.13, Florida Statutes, is reenacted to read:

595-03397-26

20261366c1

1219 322.13 Driver license examiners.—

1220 (1)

1221 (b) Those persons serving as driver license examiners are  
1222 not liable for actions taken within the scope of their  
1223 employment or designation, except as provided by s. 768.28.

1224 Section 22. For the purpose of incorporating the amendment  
1225 made by this act to section 768.28, Florida Statutes, in a  
1226 reference thereto, subsection (1) of section 337.19, Florida  
1227 Statutes, is reenacted to read:

1228 337.19 Suits by and against department; limitation of  
1229 actions; forum.—

1230 (1) Suits at law and in equity may be brought and  
1231 maintained by and against the department on any contract claim  
1232 arising from breach of an express provision or an implied  
1233 covenant of a written agreement or a written directive issued by  
1234 the department pursuant to the written agreement. In any such  
1235 suit, the department and the contractor shall have all of the  
1236 same rights and obligations as a private person under a like  
1237 contract except that no liability may be based on an oral  
1238 modification of either the written contract or written  
1239 directive. Nothing herein shall be construed to waive the  
1240 sovereign immunity of the state and its political subdivisions  
1241 from equitable claims and equitable remedies. Notwithstanding  
1242 anything to the contrary contained in this section, no employee  
1243 or agent of the department may be held personally liable to an  
1244 extent greater than that pursuant to s. 768.28 provided that no  
1245 suit sounding in tort shall be maintained against the  
1246 department.

1247 Section 23. For the purpose of incorporating the amendment

595-03397-26

20261366c1

1248 made by this act to section 768.28, Florida Statutes, in a  
1249 reference thereto, subsection (17) of section 341.302, Florida  
1250 Statutes, is reenacted to read:

1251       341.302 Rail program; duties and responsibilities of the  
1252 department.—The department, in conjunction with other  
1253 governmental entities, including the rail enterprise and the  
1254 private sector, shall develop and implement a rail program of  
1255 statewide application designed to ensure the proper maintenance,  
1256 safety, revitalization, and expansion of the rail system to  
1257 assure its continued and increased availability to respond to  
1258 statewide mobility needs. Within the resources provided pursuant  
1259 to chapter 216, and as authorized under federal law, the  
1260 department shall:

1261       (17) In conjunction with the acquisition, ownership,  
1262 construction, operation, maintenance, and management of a rail  
1263 corridor, have the authority to:

1264       (a) Assume obligations pursuant to the following:

1265       1.a. The department may assume the obligation by contract  
1266 to forever protect, defend, indemnify, and hold harmless the  
1267 freight rail operator, or its successors, from whom the  
1268 department has acquired a real property interest in the rail  
1269 corridor, and that freight rail operator's officers, agents, and  
1270 employees, from and against any liability, cost, and expense,  
1271 including, but not limited to, commuter rail passengers and rail  
1272 corridor invitees in the rail corridor, regardless of whether  
1273 the loss, damage, destruction, injury, or death giving rise to  
1274 any such liability, cost, or expense is caused in whole or in  
1275 part, and to whatever nature or degree, by the fault, failure,  
1276 negligence, misconduct, nonfeasance, or misfeasance of such

595-03397-26

20261366c1

1277 freight rail operator, its successors, or its officers, agents,  
1278 and employees, or any other person or persons whomsoever; or

1279       b. The department may assume the obligation by contract to  
1280 forever protect, defend, indemnify, and hold harmless National  
1281 Railroad Passenger Corporation, or its successors, and officers,  
1282 agents, and employees of National Railroad Passenger  
1283 Corporation, from and against any liability, cost, and expense,  
1284 including, but not limited to, commuter rail passengers and rail  
1285 corridor invitees in the rail corridor, regardless of whether  
1286 the loss, damage, destruction, injury, or death giving rise to  
1287 any such liability, cost, or expense is caused in whole or in  
1288 part, and to whatever nature or degree, by the fault, failure,  
1289 negligence, misconduct, nonfeasance, or misfeasance of National  
1290 Railroad Passenger Corporation, its successors, or its officers,  
1291 agents, and employees, or any other person or persons  
1292 whomsoever.

1293       2. The assumption of liability of the department by  
1294 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph  
1295 1.b. may not in any instance exceed the following parameters of  
1296 allocation of risk:

1297       a. The department may be solely responsible for any loss,  
1298 injury, or damage to commuter rail passengers, or rail corridor  
1299 invitees, or trespassers, regardless of circumstances or cause,  
1300 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and  
1301 6.

1302       b.(I) In the event of a limited covered accident, the  
1303 authority of the department to protect, defend, and indemnify  
1304 the freight operator for all liability, cost, and expense,  
1305 including punitive or exemplary damages, in excess of the

595-03397-26

20261366c1

1306 deductible or self-insurance retention fund established under  
1307 paragraph (b) and actually in force at the time of the limited  
1308 covered accident exists only if the freight operator agrees,  
1309 with respect to the limited covered accident, to protect,  
1310 defend, and indemnify the department for the amount of the  
1311 deductible or self-insurance retention fund established under  
1312 paragraph (b) and actually in force at the time of the limited  
1313 covered accident.

1314 (II) In the event of a limited covered accident, the  
1315 authority of the department to protect, defend, and indemnify  
1316 National Railroad Passenger Corporation for all liability, cost,  
1317 and expense, including punitive or exemplary damages, in excess  
1318 of the deductible or self-insurance retention fund established  
1319 under paragraph (b) and actually in force at the time of the  
1320 limited covered accident exists only if National Railroad  
1321 Passenger Corporation agrees, with respect to the limited  
1322 covered accident, to protect, defend, and indemnify the  
1323 department for the amount of the deductible or self-insurance  
1324 retention fund established under paragraph (b) and actually in  
1325 force at the time of the limited covered accident.

1326 3. When only one train is involved in an incident, the  
1327 department may be solely responsible for any loss, injury, or  
1328 damage if the train is a department train or other train  
1329 pursuant to subparagraph 4., but only if:

1330 a. When an incident occurs with only a freight train  
1331 involved, including incidents with trespassers or at grade  
1332 crossings, the freight rail operator is solely responsible for  
1333 any loss, injury, or damage, except for commuter rail passengers  
1334 and rail corridor invitees; or

595-03397-26

20261366c1

1335           b. When an incident occurs with only a National Railroad  
1336 Passenger Corporation train involved, including incidents with  
1337 trespassers or at grade crossings, National Railroad Passenger  
1338 Corporation is solely responsible for any loss, injury, or  
1339 damage, except for commuter rail passengers and rail corridor  
1340 invitees.

1341           4. For the purposes of this subsection:

1342           a. Any train involved in an incident that is neither the  
1343 department's train nor the freight rail operator's train,  
1344 hereinafter referred to in this subsection as an "other train,"  
1345 may be treated as a department train, solely for purposes of any  
1346 allocation of liability between the department and the freight  
1347 rail operator only, but only if the department and the freight  
1348 rail operator share responsibility equally as to third parties  
1349 outside the rail corridor who incur loss, injury, or damage as a  
1350 result of any incident involving both a department train and a  
1351 freight rail operator train, and the allocation as between the  
1352 department and the freight rail operator, regardless of whether  
1353 the other train is treated as a department train, shall remain  
1354 one-half each as to third parties outside the rail corridor who  
1355 incur loss, injury, or damage as a result of the incident. The  
1356 involvement of any other train shall not alter the sharing of  
1357 equal responsibility as to third parties outside the rail  
1358 corridor who incur loss, injury, or damage as a result of the  
1359 incident; or

1360           b. Any train involved in an incident that is neither the  
1361 department's train nor the National Railroad Passenger  
1362 Corporation's train, hereinafter referred to in this subsection  
1363 as an "other train," may be treated as a department train,

595-03397-26

20261366c1

1364 solely for purposes of any allocation of liability between the  
1365 department and National Railroad Passenger Corporation only, but  
1366 only if the department and National Railroad Passenger  
1367 Corporation share responsibility equally as to third parties  
1368 outside the rail corridor who incur loss, injury, or damage as a  
1369 result of any incident involving both a department train and a  
1370 National Railroad Passenger Corporation train, and the  
1371 allocation as between the department and National Railroad  
1372 Passenger Corporation, regardless of whether the other train is  
1373 treated as a department train, shall remain one-half each as to  
1374 third parties outside the rail corridor who incur loss, injury,  
1375 or damage as a result of the incident. The involvement of any  
1376 other train shall not alter the sharing of equal responsibility  
1377 as to third parties outside the rail corridor who incur loss,  
1378 injury, or damage as a result of the incident.

1379 5. When more than one train is involved in an incident:

1380 a.(I) If only a department train and freight rail  
1381 operator's train, or only an other train as described in sub-  
1382 subparagraph 4.a. and a freight rail operator's train, are  
1383 involved in an incident, the department may be responsible for  
1384 its property and all of its people, all commuter rail  
1385 passengers, and rail corridor invitees, but only if the freight  
1386 rail operator is responsible for its property and all of its  
1387 people, and the department and the freight rail operator each  
1388 share one-half responsibility as to trespassers or third parties  
1389 outside the rail corridor who incur loss, injury, or damage as a  
1390 result of the incident; or

1391 (II) If only a department train and a National Railroad  
1392 Passenger Corporation train, or only an other train as described

595-03397-26

20261366c1

1393 in sub-subparagraph 4.b. and a National Railroad Passenger  
1394 Corporation train, are involved in an incident, the department  
1395 may be responsible for its property and all of its people, all  
1396 commuter rail passengers, and rail corridor invitees, but only  
1397 if National Railroad Passenger Corporation is responsible for  
1398 its property and all of its people, all National Railroad  
1399 Passenger Corporation's rail passengers, and the department and  
1400 National Railroad Passenger Corporation each share one-half  
1401 responsibility as to trespassers or third parties outside the  
1402 rail corridor who incur loss, injury, or damage as a result of  
1403 the incident.

1404       b.(I) If a department train, a freight rail operator train,  
1405 and any other train are involved in an incident, the allocation  
1406 of liability between the department and the freight rail  
1407 operator, regardless of whether the other train is treated as a  
1408 department train, shall remain one-half each as to third parties  
1409 outside the rail corridor who incur loss, injury, or damage as a  
1410 result of the incident; the involvement of any other train shall  
1411 not alter the sharing of equal responsibility as to third  
1412 parties outside the rail corridor who incur loss, injury, or  
1413 damage as a result of the incident; and, if the owner, operator,  
1414 or insurer of the other train makes any payment to injured third  
1415 parties outside the rail corridor who incur loss, injury, or  
1416 damage as a result of the incident, the allocation of credit  
1417 between the department and the freight rail operator as to such  
1418 payment shall not in any case reduce the freight rail operator's  
1419 third-party-sharing allocation of one-half under this paragraph  
1420 to less than one-third of the total third party liability; or

1421       (II) If a department train, a National Railroad Passenger

595-03397-26

20261366c1

1422 Corporation train, and any other train are involved in an  
1423 incident, the allocation of liability between the department and  
1424 National Railroad Passenger Corporation, regardless of whether  
1425 the other train is treated as a department train, shall remain  
1426 one-half each as to third parties outside the rail corridor who  
1427 incur loss, injury, or damage as a result of the incident; the  
1428 involvement of any other train shall not alter the sharing of  
1429 equal responsibility as to third parties outside the rail  
1430 corridor who incur loss, injury, or damage as a result of the  
1431 incident; and, if the owner, operator, or insurer of the other  
1432 train makes any payment to injured third parties outside the  
1433 rail corridor who incur loss, injury, or damage as a result of  
1434 the incident, the allocation of credit between the department  
1435 and National Railroad Passenger Corporation as to such payment  
1436 shall not in any case reduce National Railroad Passenger  
1437 Corporation's third-party-sharing allocation of one-half under  
1438 this sub-subparagraph to less than one-third of the total third  
1439 party liability.

1440         6. Any such contractual duty to protect, defend, indemnify,  
1441 and hold harmless such a freight rail operator or National  
1442 Railroad Passenger Corporation shall expressly include a  
1443 specific cap on the amount of the contractual duty, which amount  
1444 shall not exceed \$200 million without prior legislative  
1445 approval, and the department to purchase liability insurance and  
1446 establish a self-insurance retention fund in the amount of the  
1447 specific cap established under this subparagraph, provided that:

1448         a. No such contractual duty shall in any case be effective  
1449 nor otherwise extend the department's liability in scope and  
1450 effect beyond the contractual liability insurance and self-

595-03397-26

20261366c1

1451 insurance retention fund required pursuant to this paragraph;  
1452 and

1453       b.(I) The freight rail operator's compensation to the  
1454 department for future use of the department's rail corridor  
1455 shall include a monetary contribution to the cost of such  
1456 liability coverage for the sole benefit of the freight rail  
1457 operator.

1458       (II) National Railroad Passenger Corporation's compensation  
1459 to the department for future use of the department's rail  
1460 corridor shall include a monetary contribution to the cost of  
1461 such liability coverage for the sole benefit of National  
1462 Railroad Passenger Corporation.

1463       (b) Purchase liability insurance, which amount shall not  
1464 exceed \$200 million, and establish a self-insurance retention  
1465 fund for the purpose of paying the deductible limit established  
1466 in the insurance policies it may obtain, including coverage for  
1467 the department, any freight rail operator as described in  
1468 paragraph (a), National Railroad Passenger Corporation, commuter  
1469 rail service providers, governmental entities, or any ancillary  
1470 development, which self-insurance retention fund or deductible  
1471 shall not exceed \$10 million. The insureds shall pay a  
1472 reasonable monetary contribution to the cost of such liability  
1473 coverage for the sole benefit of the insured. Such insurance and  
1474 self-insurance retention fund may provide coverage for all  
1475 damages, including, but not limited to, compensatory, special,  
1476 and exemplary, and be maintained to provide an adequate fund to  
1477 cover claims and liabilities for loss, injury, or damage arising  
1478 out of or connected with the ownership, operation, maintenance,  
1479 and management of a rail corridor.

595-03397-26

20261366c1

1480 (c) Incur expenses for the purchase of advertisements,  
1481 marketing, and promotional items.

1482 (d) Without altering any of the rights granted to the  
1483 department under this section, agree to assume the obligations  
1484 to indemnify and insure, pursuant to s. 343.545, freight rail  
1485 service, intercity passenger rail service, and commuter rail  
1486 service on a department-owned rail corridor, whether ownership  
1487 is in fee or by easement, or on a rail corridor where the  
1488 department has the right to operate.

1489  
1490 Neither the assumption by contract to protect, defend,  
1491 indemnify, and hold harmless; the purchase of insurance; nor the  
1492 establishment of a self-insurance retention fund shall be deemed  
1493 to be a waiver of any defense of sovereign immunity for torts  
1494 nor deemed to increase the limits of the department's or the  
1495 governmental entity's liability for torts as provided in s.  
1496 768.28. The requirements of s. 287.022(1) shall not apply to the  
1497 purchase of any insurance under this subsection. The provisions  
1498 of this subsection shall apply and inure fully as to any other  
1499 governmental entity providing commuter rail service and  
1500 constructing, operating, maintaining, or managing a rail  
1501 corridor on publicly owned right-of-way under contract by the  
1502 governmental entity with the department or a governmental entity  
1503 designated by the department. Notwithstanding any law to the  
1504 contrary, procurement for the construction, operation,  
1505 maintenance, and management of any rail corridor described in  
1506 this subsection, whether by the department, a governmental  
1507 entity under contract with the department, or a governmental  
1508 entity designated by the department, shall be pursuant to s.

595-03397-26

20261366c1

1509 287.057 and shall include, but not be limited to, criteria for  
1510 the consideration of qualifications, technical aspects of the  
1511 proposal, and price. Further, any such contract for design-build  
1512 shall be procured pursuant to the criteria in s. 337.11(7).

1513 Section 24. For the purpose of incorporating the amendment  
1514 made by this act to section 768.28, Florida Statutes, in a  
1515 reference thereto, subsection (3) of section 343.811, Florida  
1516 Statutes, is reenacted to read:

1517 343.811 Power to assume indemnification and insurance  
1518 obligations.—

1519 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In  
1520 conjunction with the development or operation of a commuter rail  
1521 service on the Coastal Link corridor, an agency may:

1522 (a) Assume obligations pursuant to the following:

1523 1.a. The agency may assume the obligation by contract to  
1524 protect, defend, indemnify, and hold harmless FECR and its  
1525 officers, agents, and employees from and against:

1526 (I) Any liability, cost, and expense, including, but not  
1527 limited to, the agency's passengers and other rail corridor  
1528 invitees in, on, or about the Coastal Link corridor, regardless  
1529 of whether the loss, damage, destruction, injury, or death  
1530 giving rise to any such liability, cost, or expense is caused in  
1531 whole or in part, and to whatever nature or degree, by the  
1532 fault, failure, negligence, misconduct, nonfeasance, or  
1533 misfeasance of such freight rail operator, its successors, or  
1534 its officers, agents, and employees, or any other person or  
1535 persons whomsoever.

1536 (II) Any loss, injury, or damage incurred by other rail  
1537 corridor invitees up to the amount of the self-insurance

595-03397-26

20261366c1

1538 retention amount with respect to limited covered accidents  
1539 caused by the agency.

1540 b. The agency may assume the obligation by contract to  
1541 protect, defend, indemnify, and hold harmless Brightline and its  
1542 officers, agents, and employees from and against:

1543 (I) Any liability, cost, and expense, including, but not  
1544 limited to, the agency's passengers and rail corridor invitees  
1545 in the Coastal Link corridor, regardless of whether the loss,  
1546 damage, destruction, injury, or death giving rise to any such  
1547 liability, cost, or expense is caused in whole or in part, and  
1548 to whatever nature or degree, by the fault, failure, negligence,  
1549 misconduct, nonfeasance, or misfeasance of Brightline, its  
1550 successors, or its officers, agents, and employees, or any other  
1551 person or persons whomsoever.

1552 (II) Any loss, injury, or damage incurred by other rail  
1553 corridor invitees up to the amount of the self-insurance  
1554 retention amount with respect to limited covered accidents  
1555 caused by the agency.

1556 2. The assumption of liability of the agency by contract  
1557 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may  
1558 not in any instance exceed the following parameters of  
1559 allocation of risk:

1560 a. The agency may be solely responsible for any loss,  
1561 injury, or damage to the agency's passengers, or rail corridor  
1562 invitees, third parties, or trespassers, regardless of  
1563 circumstances or cause, subject to sub-subparagraph b. and  
1564 subparagraphs 3., 4., and 5.

1565 b.(I) In the event of a limited covered accident caused by  
1566 FEER, the authority of an agency to protect, defend, and

595-03397-26

20261366c1

1567 indemnify FECR for all liability, cost, and expense, including  
1568 punitive or exemplary damages, in excess of the self-insurance  
1569 retention amount exists only if FECR agrees, with respect to  
1570 such limited covered accident caused by FECR, to protect,  
1571 defend, and indemnify the agency for the amount of the self-  
1572 insurance retention amount.

1573 (II) In the event of a limited covered accident caused by  
1574 Brightline, the authority of an agency to protect, defend, and  
1575 indemnify Brightline for all liability, cost, and expense,  
1576 including punitive or exemplary damages, in excess of the self-  
1577 insurance retention amount exists only if Brightline agrees,  
1578 with respect to such limited covered accident, to protect,  
1579 defend, and indemnify the agency for the amount of the self-  
1580 insurance retention amount.

1581 3. When only one train is involved in an incident and:

1582 a. The train is an agency's train, including an incident  
1583 with trespassers or at-grade crossings, the agency may be solely  
1584 responsible for any loss, injury, or damage.

1585 b. The train is FECR's train, including an incident with  
1586 trespassers or at-grade crossings, FECR is solely responsible  
1587 for any loss, injury, or damage, except for the agency's  
1588 passengers and other rail corridor invitees, which are the  
1589 responsibility of the agency, and Brightline's passengers and  
1590 other rail corridor invitees, which are the responsibility of  
1591 Brightline.

1592 c. The train is Brightline's train, including an incident  
1593 with trespassers or at-grade crossings, Brightline is solely  
1594 responsible for any loss, injury, or damage, except for the  
1595 agency's passengers or rail corridor invitees, which are the

595-03397-26

20261366c1

1596 responsibility of the agency, and FECR's rail corridor invitees,  
1597 which are the responsibility of FECR.

1598 4. When an incident involves more than one operator, each  
1599 operator is responsible for:

1600 a. Its property; passengers; employees, excluding employees  
1601 who are, at the time of the incident, rail corridor invitees of  
1602 another operator; and other rail corridor invitees.

1603 b. Its proportionate share of any loss or damage to the  
1604 joint infrastructure.

1605 c. Its proportionate share of any loss, injury, or damage  
1606 to:

1607 (I) Rail corridor invitees who are not rail corridor  
1608 invitees of operators, provided that the agency shall always be  
1609 responsible for its passengers and its rail corridor invitees  
1610 regardless of whether the agency was involved in the incident.

1611 (II) Trespassers or third parties outside the Coastal Link  
1612 corridor as a result of the incident.

1613 5. Any such contractual duty to protect, defend, indemnify,  
1614 and hold harmless FECR or Brightline with respect to claims by  
1615 rail passengers shall expressly include a specific cap on the  
1616 amount of the contractual duty, which amount may not exceed \$323  
1617 million per occurrence and shall be adjusted so that the per-  
1618 occurrence insurance requirement is equal to the aggregate  
1619 allowable awards to all rail passengers, against all defendants,  
1620 for all claims, including claims for punitive damages, arising  
1621 from a single accident or incident in accordance with 49 U.S.C.  
1622 s. 28103, or any successor provision, without prior legislative  
1623 approval.

1624 6. Notwithstanding any provision of this section to the

595-03397-26

20261366c1

1625 contrary, the liabilities of the agency to the state or any  
1626 other agency shall be as set forth in an agreement among such  
1627 entities and limited by s. 768.28(19).

1628 (b) Purchase liability insurance, which amount may not  
1629 exceed \$323 million per occurrence, which amount shall be  
1630 adjusted so that the per-occurrence insurance requirement is  
1631 equal to the aggregate allowable awards to all rail passengers,  
1632 against all defendants, for all claims, including claims for  
1633 punitive damages, arising from a single accident or incident in  
1634 accordance with 49 U.S.C. s. 28103, or any successor provision,  
1635 and establish a self-insurance retention fund for the purpose of  
1636 paying the deductible limit established in the insurance  
1637 policies it may obtain, including coverage for a county agency,  
1638 any freight rail operator as described in paragraph (a),  
1639 Brightline, commuter rail service providers, governmental  
1640 entities, or any ancillary development, which self-insurance  
1641 retention fund or deductible shall not exceed the self-insurance  
1642 retention amount.

1643 1. Such insurance and self-insurance retention fund may  
1644 provide coverage for all damages, including, but not limited to,  
1645 compensatory, special, and exemplary, and be maintained to  
1646 provide an adequate fund to cover claims and liabilities for  
1647 loss, injury, or damage arising out of or connected with the  
1648 ownership, operation, maintenance, and management of the Coastal  
1649 Link corridor.

1650 2. Any self-insured retention account shall be a segregated  
1651 account of the agency and shall be subject to the same  
1652 conditions, restrictions, exclusions, obligations, and duties  
1653 included in any and all of the policies of liability insurance

595-03397-26

20261366c1

1654 purchased under this paragraph.

1655       3. Unless otherwise specifically provided by general law,  
1656 FEER and Brightline, and their respective officers, agents, and  
1657 employees, are not officers, agents, employees, or subdivisions  
1658 of the state and are not entitled to sovereign immunity.

1659  
1660 Neither the assumption by contract to protect, defend,  
1661 indemnify, and hold harmless; the purchase of insurance; nor the  
1662 establishment of a self-insurance retention fund shall be deemed  
1663 to be a waiver of any defense of sovereign immunity for tort  
1664 claims or deemed to increase the limits of the agency's  
1665 liability for tort claims as provided in s. 768.28.

1666       Section 25. For the purpose of incorporating the amendment  
1667 made by this act to section 768.28, Florida Statutes, in a  
1668 reference thereto, paragraph (c) of subsection (4) of section  
1669 351.03, Florida Statutes, is reenacted to read:

1670       351.03 Railroad-highway grade-crossing warning signs and  
1671 signals; audible warnings; exercise of reasonable care; blocking  
1672 highways, roads, and streets during darkness.—

1673       (4)

1674       (c) Nothing in this subsection shall be construed to  
1675 nullify the liability provisions of s. 768.28.

1676       Section 26. For the purpose of incorporating the amendment  
1677 made by this act to section 768.28, Florida Statutes, in a  
1678 reference thereto, subsection (6) of section 373.1395, Florida  
1679 Statutes, is reenacted to read:

1680       373.1395 Limitation on liability of water management  
1681 district with respect to areas made available to the public for  
1682 recreational purposes without charge.—

595-03397-26

20261366c1

1683 (6) This section does not relieve any water management  
1684 district of any liability that would otherwise exist for gross  
1685 negligence or a deliberate, willful, or malicious injury to a  
1686 person or property. This section does not create or increase the  
1687 liability of any water management district or person beyond that  
1688 which is authorized by s. 768.28.

1689 Section 27. For the purpose of incorporating the amendment  
1690 made by this act to section 768.28, Florida Statutes, in a  
1691 reference thereto, paragraph (a) of subsection (3) of section  
1692 375.251, Florida Statutes, is reenacted to read:

1693 375.251 Limitation on liability of persons making available  
1694 to public certain areas for recreational purposes without  
1695 charge.—

1696 (3) (a) An owner of an area who enters into a written  
1697 agreement concerning the area with a state agency for outdoor  
1698 recreational purposes, where such agreement recognizes that the  
1699 state agency is responsible for personal injury, loss, or damage  
1700 resulting in whole or in part from the state agency's use of the  
1701 area under the terms of the agreement subject to the limitations  
1702 and conditions specified in s. 768.28, owes no duty of care to  
1703 keep the area safe for entry or use by others, or to give  
1704 warning to persons entering or going on the area of any  
1705 hazardous conditions, structures, or activities thereon. An  
1706 owner who enters into a written agreement concerning the area  
1707 with a state agency for outdoor recreational purposes:

1708 1. Is not presumed to extend any assurance that the area is  
1709 safe for any purpose;

1710 2. Does not incur any duty of care toward a person who goes  
1711 on the area that is subject to the agreement; or

595-03397-26

20261366c1

1712 3. Is not liable or responsible for any injury to persons  
1713 or property caused by the act or omission of a person who goes  
1714 on the area that is subject to the agreement.

1715 Section 28. For the purpose of incorporating the amendment  
1716 made by this act to section 768.28, Florida Statutes, in a  
1717 reference thereto, subsection (9) of section 381.0056, Florida  
1718 Statutes, is reenacted to read:

1719 381.0056 School health services program.—

1720 (9) Any health care entity that provides school health  
1721 services under contract with the department pursuant to a school  
1722 health services plan developed under this section, and as part  
1723 of a school nurse services public-private partnership, is deemed  
1724 to be a corporation acting primarily as an instrumentality of  
1725 the state solely for the purpose of limiting liability pursuant  
1726 to s. 768.28(5). The limitations on tort actions contained in s.  
1727 768.28(5) shall apply to any action against the entity with  
1728 respect to the provision of school health services, if the  
1729 entity is acting within the scope of and pursuant to guidelines  
1730 established in the contract or by rule of the department. The  
1731 contract must require the entity, or the partnership on behalf  
1732 of the entity, to obtain general liability insurance coverage,  
1733 with any additional endorsement necessary to insure the entity  
1734 for liability assumed by its contract with the department. The  
1735 Legislature intends that insurance be purchased by entities, or  
1736 by partnerships on behalf of the entity, to cover all liability  
1737 claims, and under no circumstances shall the state or the  
1738 department be responsible for payment of any claims or defense  
1739 costs for claims brought against the entity or its subcontractor  
1740 for services performed under the contract with the department.

595-03397-26

20261366c1

1741 This subsection does not preclude consideration by the  
1742 Legislature for payment by the state of any claims bill  
1743 involving an entity contracting with the department pursuant to  
1744 this section.

1745 Section 29. For the purpose of incorporating the amendment  
1746 made by this act to section 768.28, Florida Statutes, in a  
1747 reference thereto, subsection (3) of section 393.075, Florida  
1748 Statutes, is reenacted to read:

1749 393.075 General liability coverage.—

1750 (3) This section shall not be construed as designating or  
1751 not designating that a person who owns or operates a foster care  
1752 facility or group home facility as described in this section or  
1753 any other person is an employee or agent of the state. Nothing  
1754 in this section amends, expands, or supersedes the provisions of  
1755 s. 768.28.

1756 Section 30. For the purpose of incorporating the amendment  
1757 made by this act to section 768.28, Florida Statutes, in a  
1758 reference thereto, subsection (7) of section 394.9085, Florida  
1759 Statutes, is reenacted to read:

1760 394.9085 Behavioral provider liability.—

1761 (7) This section shall not be construed to waive sovereign  
1762 immunity for any governmental unit or other entity protected by  
1763 sovereign immunity. Section 768.28 shall continue to apply to  
1764 all governmental units and such entities.

1765 Section 31. For the purpose of incorporating the amendment  
1766 made by this act to section 768.28, Florida Statutes, in a  
1767 reference thereto, paragraph (g) of subsection (10) of section  
1768 395.1055, Florida Statutes, is reenacted to read:

1769 395.1055 Rules and enforcement.—

595-03397-26

20261366c1

1770 (10) The agency shall establish a pediatric cardiac  
1771 technical advisory panel, pursuant to s. 20.052, to develop  
1772 procedures and standards for measuring outcomes of pediatric  
1773 cardiac catheterization programs and pediatric cardiovascular  
1774 surgery programs.

1775 (g) Panel members are agents of the state for purposes of  
1776 s. 768.28 throughout the good faith performance of the duties  
1777 assigned to them by the Secretary of Health Care Administration.

1778 Section 32. For the purpose of incorporating the amendment  
1779 made by this act to section 768.28, Florida Statutes, in a  
1780 reference thereto, paragraph (c) of subsection (17) of section  
1781 403.706, Florida Statutes, is reenacted to read:

1782 403.706 Local government solid waste responsibilities.—

1783 (17) To effect the purposes of this part, counties and  
1784 municipalities are authorized, in addition to other powers  
1785 granted pursuant to this part:

1786 (c) To waive sovereign immunity and immunity from suit in  
1787 federal court by vote of the governing body of the county or  
1788 municipality to the extent necessary to carry out the authority  
1789 granted in paragraphs (a) and (b), notwithstanding the  
1790 limitations prescribed in s. 768.28.

1791 Section 33. For the purpose of incorporating the amendment  
1792 made by this act to section 768.28, Florida Statutes, in a  
1793 reference thereto, paragraph (b) of subsection (15) of section  
1794 409.175, Florida Statutes, is reenacted to read:

1795 409.175 Licensure of family foster homes, residential  
1796 child-caring agencies, and child-placing agencies; public  
1797 records exemption.—

1798 (15)

595-03397-26

20261366c1

1799 (b) This subsection may not be construed as designating or  
1800 not designating that a person who owns or operates a family  
1801 foster home as described in this subsection or any other person  
1802 is an employee or agent of the state. Nothing in this subsection  
1803 amends, expands, or supersedes the provisions of s. 768.28.

1804 Section 34. For the purpose of incorporating the amendment  
1805 made by this act to section 768.28, Florida Statutes, in  
1806 references thereto, subsection (1), paragraph (a) of subsection  
1807 (2), and paragraph (a) of subsection (3) of section 409.993,  
1808 Florida Statutes, are reenacted to read:

1809 409.993 Lead agencies and subcontractor liability.—

1810 (1) FINDINGS.—

1811 (a) The Legislature finds that the state has traditionally  
1812 provided foster care services to children who are the  
1813 responsibility of the state. As such, foster children have not  
1814 had the right to recover for injuries beyond the limitations  
1815 specified in s. 768.28. The Legislature has determined that  
1816 foster care and related services should be outsourced pursuant  
1817 to this section and that the provision of such services is of  
1818 paramount importance to the state. The purpose of such  
1819 outsourcing is to increase the level of safety, security, and  
1820 stability of children who are or become the responsibility of  
1821 the state. One of the components necessary to secure a safe and  
1822 stable environment for such children is the requirement that  
1823 private providers maintain liability insurance. As such,  
1824 insurance needs to be available and remain available to  
1825 nongovernmental foster care and related services providers  
1826 without the resources of such providers being significantly  
1827 reduced by the cost of maintaining such insurance.

595-03397-26

20261366c1

1828 (b) The Legislature further finds that, by requiring the  
1829 following minimum levels of insurance, children in outsourced  
1830 foster care and related services will gain increased protection  
1831 and rights of recovery in the event of injury than currently  
1832 provided in s. 768.28.

1833 (2) LEAD AGENCY LIABILITY.—

1834 (a) Other than an entity to which s. 768.28 applies, an  
1835 eligible community-based care lead agency, or its employees or  
1836 officers, except as otherwise provided in paragraph (b), shall,  
1837 as a part of its contract, obtain a minimum of \$1 million per  
1838 occurrence with a policy period aggregate limit of \$3 million in  
1839 general liability insurance coverage. The lead agency must also  
1840 require that staff who transport client children and families in  
1841 their personal automobiles in order to carry out their job  
1842 responsibilities obtain minimum bodily injury liability  
1843 insurance in the amount of \$100,000 per person per any one  
1844 automobile accident, and subject to such limits for each person,  
1845 \$300,000 for all damages resulting from any one automobile  
1846 accident, on their personal automobiles. In lieu of personal  
1847 motor vehicle insurance, the lead agency's casualty, liability,  
1848 or motor vehicle insurance carrier may provide nonowned  
1849 automobile liability coverage. This insurance provides liability  
1850 insurance for an automobile that the lead agency uses in  
1851 connection with the lead agency's business but does not own,  
1852 lease, rent, or borrow. This coverage includes an automobile  
1853 owned by an employee of the lead agency or a member of the  
1854 employee's household but only while the automobile is used in  
1855 connection with the lead agency's business. The nonowned  
1856 automobile coverage for the lead agency applies as excess

595-03397-26

20261366c1

1857 coverage over any other collectible insurance. The personal  
1858 automobile policy for the employee of the lead agency shall be  
1859 primary insurance, and the nonowned automobile coverage of the  
1860 lead agency acts as excess insurance to the primary insurance.  
1861 The lead agency shall provide a minimum limit of \$1 million in  
1862 nonowned automobile coverage. In a tort action brought against  
1863 such a lead agency or employee, net economic damages shall be  
1864 limited to \$2 million per liability claim and \$200,000 per  
1865 automobile claim, including, but not limited to, past and future  
1866 medical expenses, wage loss, and loss of earning capacity,  
1867 offset by any collateral source payment paid or payable. In any  
1868 tort action brought against a lead agency, noneconomic damages  
1869 shall be limited to \$400,000 per claim. A claims bill may be  
1870 brought on behalf of a claimant pursuant to s. 768.28 for any  
1871 amount exceeding the limits specified in this paragraph. Any  
1872 offset of collateral source payments made as of the date of the  
1873 settlement or judgment shall be in accordance with s. 768.76.  
1874 The lead agency is not liable in tort for the acts or omissions  
1875 of its subcontractors or the officers, agents, or employees of  
1876 its subcontractors.

1877 (3) SUBCONTRACTOR LIABILITY.—

1878 (a) A subcontractor of an eligible community-based care  
1879 lead agency that is a direct provider of foster care and related  
1880 services to children and families, and its employees or  
1881 officers, except as otherwise provided in paragraph (c), must,  
1882 as a part of its contract, obtain a minimum of \$1 million per  
1883 occurrence with a policy period aggregate limit of \$3 million in  
1884 general liability insurance coverage. The subcontractor of a  
1885 lead agency must also require that staff who transport client

595-03397-26

20261366c1

1886 children and families in their personal automobiles in order to  
1887 carry out their job responsibilities obtain minimum bodily  
1888 injury liability insurance in the amount of \$100,000 per person  
1889 in any one automobile accident, and subject to such limits for  
1890 each person, \$300,000 for all damages resulting from any one  
1891 automobile accident, on their personal automobiles. In lieu of  
1892 personal motor vehicle insurance, the subcontractor's casualty,  
1893 liability, or motor vehicle insurance carrier may provide  
1894 nonowned automobile liability coverage. This insurance provides  
1895 liability insurance for automobiles that the subcontractor uses  
1896 in connection with the subcontractor's business but does not  
1897 own, lease, rent, or borrow. This coverage includes automobiles  
1898 owned by the employees of the subcontractor or a member of the  
1899 employee's household but only while the automobiles are used in  
1900 connection with the subcontractor's business. The nonowned  
1901 automobile coverage for the subcontractor applies as excess  
1902 coverage over any other collectible insurance. The personal  
1903 automobile policy for the employee of the subcontractor shall be  
1904 primary insurance, and the nonowned automobile coverage of the  
1905 subcontractor acts as excess insurance to the primary insurance.  
1906 The subcontractor shall provide a minimum limit of \$1 million in  
1907 nonowned automobile coverage. In a tort action brought against  
1908 such subcontractor or employee, net economic damages shall be  
1909 limited to \$2 million per liability claim and \$200,000 per  
1910 automobile claim, including, but not limited to, past and future  
1911 medical expenses, wage loss, and loss of earning capacity,  
1912 offset by any collateral source payment paid or payable. In a  
1913 tort action brought against such subcontractor, noneconomic  
1914 damages shall be limited to \$400,000 per claim. A claims bill

595-03397-26

20261366c1

1915 may be brought on behalf of a claimant pursuant to s. 768.28 for  
1916 any amount exceeding the limits specified in this paragraph. Any  
1917 offset of collateral source payments made as of the date of the  
1918 settlement or judgment shall be in accordance with s. 768.76.

1919 Section 35. For the purpose of incorporating the amendment  
1920 made by this act to section 768.28, Florida Statutes, in a  
1921 reference thereto, subsection (8) of section 420.504, Florida  
1922 Statutes, is reenacted to read:

1923 420.504 Public corporation; creation, membership, terms,  
1924 expenses.—

1925 (8) The corporation is a corporation primarily acting as an  
1926 instrumentality of the state, within the meaning of s. 768.28.

1927 Section 36. For the purpose of incorporating the amendment  
1928 made by this act to section 768.28, Florida Statutes, in a  
1929 reference thereto, subsection (3) of section 455.221, Florida  
1930 Statutes, is reenacted to read:

1931 455.221 Legal and investigative services.—

1932 (3) Any person retained by the department under contract to  
1933 review materials, make site visits, or provide expert testimony  
1934 regarding any complaint or application filed with the department  
1935 relating to a profession under the jurisdiction of the  
1936 department shall be considered an agent of the department in  
1937 determining the state insurance coverage and sovereign immunity  
1938 protection applicability of ss. 284.31 and 768.28.

1939 Section 37. For the purpose of incorporating the amendment  
1940 made by this act to section 768.28, Florida Statutes, in a  
1941 reference thereto, subsection (5) of section 455.32, Florida  
1942 Statutes, is reenacted to read:

1943 455.32 Management Privatization Act.—

595-03397-26

20261366c1

1944 (5) Any such corporation may hire staff as necessary to  
1945 carry out its functions. Such staff are not public employees for  
1946 the purposes of chapter 110 or chapter 112, except that the  
1947 board of directors and the employees of the corporation are  
1948 subject to the provisions of s. 112.061 and part III of chapter  
1949 112. The provisions of s. 768.28 apply to each such corporation,  
1950 which is deemed to be a corporation primarily acting as an  
1951 instrumentality of the state but which is not an agency within  
1952 the meaning of s. 20.03(1).

1953 Section 38. For the purpose of incorporating the amendment  
1954 made by this act to section 768.28, Florida Statutes, in a  
1955 reference thereto, subsection (3) of section 456.009, Florida  
1956 Statutes, is reenacted to read:

1957 456.009 Legal and investigative services.—

1958 (3) Any person retained by the department under contract to  
1959 review materials, make site visits, or provide expert testimony  
1960 regarding any complaint or application filed with the department  
1961 relating to a profession under the jurisdiction of the  
1962 department shall be considered an agent of the department in  
1963 determining the state insurance coverage and sovereign immunity  
1964 protection applicability of ss. 284.31 and 768.28.

1965 Section 39. For the purpose of incorporating the amendment  
1966 made by this act to section 768.28, Florida Statutes, in a  
1967 reference thereto, paragraph (a) of subsection (15) of section  
1968 456.076, Florida Statutes, is reenacted to read:

1969 456.076 Impaired practitioner programs.—

1970 (15) (a) A consultant retained pursuant to this section and  
1971 a consultant's directors, officers, employees, or agents shall  
1972 be considered agents of the department for purposes of s. 768.28

595-03397-26

20261366c1

1973 while acting within the scope of the consultant's duties under  
1974 the contract with the department.

1975 Section 40. For the purpose of incorporating the amendment  
1976 made by this act to section 768.28, Florida Statutes, in a  
1977 reference thereto, subsection (3) of section 471.038, Florida  
1978 Statutes, is reenacted to read:

1979 471.038 Florida Engineers Management Corporation.—

1980 (3) The Florida Engineers Management Corporation is created  
1981 to provide administrative, investigative, and prosecutorial  
1982 services to the board in accordance with the provisions of  
1983 chapter 455 and this chapter. The management corporation may  
1984 hire staff as necessary to carry out its functions. Such staff  
1985 are not public employees for the purposes of chapter 110 or  
1986 chapter 112, except that the board of directors and the staff  
1987 are subject to the provisions of s. 112.061. The provisions of  
1988 s. 768.28 apply to the management corporation, which is deemed  
1989 to be a corporation primarily acting as an instrumentality of  
1990 the state, but which is not an agency within the meaning of s.  
1991 20.03(1). The management corporation shall:

1992 (a) Be a Florida corporation not for profit, incorporated  
1993 under the provisions of chapter 617.

1994 (b) Provide administrative, investigative, and  
1995 prosecutorial services to the board in accordance with the  
1996 provisions of chapter 455, this chapter, and the contract  
1997 required by this section.

1998 (c) Receive, hold, and administer property and make only  
1999 prudent expenditures directly related to the responsibilities of  
2000 the board, and in accordance with the contract required by this  
2001 section.

595-03397-26

20261366c1

2002 (d) Be approved by the board, and the department, to  
2003 operate for the benefit of the board and in the best interest of  
2004 the state.

2005 (e) Operate under a fiscal year that begins on July 1 of  
2006 each year and ends on June 30 of the following year.

2007 (f) Have a seven-member board of directors, five of whom  
2008 are to be appointed by the board and must be registrants  
2009 regulated by the board and two of whom are to be appointed by  
2010 the secretary and must be laypersons not regulated by the board.  
2011 All appointments shall be for 4-year terms. No member shall  
2012 serve more than two consecutive terms. Failure to attend three  
2013 consecutive meetings shall be deemed a resignation from the  
2014 board, and the vacancy shall be filled by a new appointment.

2015 (g) Select its officers in accordance with its bylaws. The  
2016 members of the board of directors who were appointed by the  
2017 board may be removed by the board.

2018 (h) Select the president of the management corporation, who  
2019 shall also serve as executive director to the board, subject to  
2020 approval of the board.

2021 (i) Use a portion of the interest derived from the  
2022 management corporation account to offset the costs associated  
2023 with the use of credit cards for payment of fees by applicants  
2024 or licensees.

2025 (j) Operate under a written contract with the department  
2026 which is approved by the board. The contract must provide for,  
2027 but is not limited to:

2028 1. Submission by the management corporation of an annual  
2029 budget that complies with board rules for approval by the board  
2030 and the department.

595-03397-26

20261366c1

2031           2. Annual certification by the board and the department  
2032 that the management corporation is complying with the terms of  
2033 the contract in a manner consistent with the goals and purposes  
2034 of the board and in the best interest of the state. This  
2035 certification must be reported in the board's minutes. The  
2036 contract must also provide for methods and mechanisms to resolve  
2037 any situation in which the certification process determines  
2038 noncompliance.

2039           3. Funding of the management corporation through  
2040 appropriations allocated to the regulation of professional  
2041 engineers from the Professional Regulation Trust Fund.

2042           4. The reversion to the board, or the state if the board  
2043 ceases to exist, of moneys, records, data, and property held in  
2044 trust by the management corporation for the benefit of the  
2045 board, if the management corporation is no longer approved to  
2046 operate for the board or the board ceases to exist. All records  
2047 and data in a computerized database shall be returned to the  
2048 department in a form that is compatible with the computerized  
2049 database of the department.

2050           5. The securing and maintaining by the management  
2051 corporation, during the term of the contract and for all acts  
2052 performed during the term of the contract, of all liability  
2053 insurance coverages in an amount to be approved by the board to  
2054 defend, indemnify, and hold harmless the management corporation  
2055 and its officers and employees, the department and its  
2056 employees, and the state against all claims arising from state  
2057 and federal laws. Such insurance coverage must be with insurers  
2058 qualified and doing business in the state. The management  
2059 corporation must provide proof of insurance to the department.

595-03397-26

20261366c1

2060 The department and its employees and the state are exempt from  
2061 and are not liable for any sum of money which represents a  
2062 deductible, which sums shall be the sole responsibility of the  
2063 management corporation. Violation of this subparagraph shall be  
2064 grounds for terminating the contract.

2065 6. Payment by the management corporation, out of its  
2066 allocated budget, to the department of all costs of  
2067 representation by the board counsel, including salary and  
2068 benefits, travel, and any other compensation traditionally paid  
2069 by the department to other board counsel.

2070 7. Payment by the management corporation, out of its  
2071 allocated budget, to the department of all costs incurred by the  
2072 management corporation or the board for the Division of  
2073 Administrative Hearings of the Department of Management Services  
2074 and any other cost for utilization of these state services.

2075 8. Payment by the management corporation, out of its  
2076 allocated budget, to the department of reasonable costs  
2077 associated with the contract monitor.

2078 (k) Provide for an annual financial audit of its financial  
2079 accounts and records by an independent certified public  
2080 accountant. The annual audit report shall include a management  
2081 letter in accordance with s. 11.45 and a detailed supplemental  
2082 schedule of expenditures for each expenditure category. The  
2083 annual audit report must be submitted to the board, the  
2084 department, and the Auditor General for review.

2085 (l) Provide for persons not employed by the corporation who  
2086 are charged with the responsibility of receiving and depositing  
2087 fee and fine revenues to have a faithful performance bond in  
2088 such an amount and according to such terms as shall be

595-03397-26

20261366c1

2089 determined in the contract.

2090 (m) Submit to the secretary, the board, and the  
2091 Legislature, on or before October 1 of each year, a report on  
2092 the status of the corporation which includes, but is not limited  
2093 to, information concerning the programs and funds that have been  
2094 transferred to the corporation. The report must include: the  
2095 number of license applications received; the number approved and  
2096 denied and the number of licenses issued; the number of  
2097 examinations administered and the number of applicants who  
2098 passed or failed the examination; the number of complaints  
2099 received; the number determined to be legally sufficient; the  
2100 number dismissed; the number determined to have probable cause;  
2101 the number of administrative complaints issued and the status of  
2102 the complaints; and the number and nature of disciplinary  
2103 actions taken by the board.

2104 (n) Develop and submit to the department, performance  
2105 standards and measurable outcomes for the board to adopt by rule  
2106 in order to facilitate efficient and cost-effective regulation.

2107 Section 41. For the purpose of incorporating the amendment  
2108 made by this act to section 768.28, Florida Statutes, in a  
2109 reference thereto, paragraph (b) of subsection (11) of section  
2110 472.006, Florida Statutes, is reenacted to read:

2111 472.006 Department; powers and duties.—The department  
2112 shall:

2113 (11) Provide legal counsel for the board by contracting  
2114 with the Department of Legal Affairs, by retaining private  
2115 counsel pursuant to s. 287.059, or by providing department staff  
2116 counsel. The board shall periodically review and evaluate the  
2117 services provided by its board counsel. Fees and costs of such

595-03397-26

20261366c1

2118 counsel shall be paid from the General Inspection Trust Fund,  
2119 subject to ss. 215.37 and 472.011. All contracts for independent  
2120 legal counsel must provide for periodic review and evaluation by  
2121 the board and the department of services provided.

2122 (b) Any person retained by the department under contract to  
2123 review materials, make site visits, or provide expert testimony  
2124 regarding any complaint or application filed with the department  
2125 relating to the practice of surveying and mapping shall be  
2126 considered an agent of the department in determining the state  
2127 insurance coverage and sovereign immunity protection  
2128 applicability of ss. 284.31 and 768.28.

2129 Section 42. For the purpose of incorporating the amendment  
2130 made by this act to section 768.28, Florida Statutes, in a  
2131 reference thereto, subsection (7) of section 497.167, Florida  
2132 Statutes, is reenacted to read:

2133 497.167 Administrative matters.—

2134 (7) Any person retained by the department under contract to  
2135 review materials, make site visits, or provide expert testimony  
2136 regarding any complaint or application filed with the  
2137 department, relating to regulation under this chapter, shall be  
2138 considered an agent of the department in determining the state  
2139 insurance coverage and sovereign immunity protection  
2140 applicability of ss. 284.31 and 768.28.

2141 Section 43. For the purpose of incorporating the amendment  
2142 made by this act to section 768.28, Florida Statutes, in a  
2143 reference thereto, subsection (2) of section 513.118, Florida  
2144 Statutes, is reenacted to read:

2145 513.118 Conduct on premises; refusal of service.—

2146 (2) The operator of a recreational vehicle park may request

595-03397-26

20261366c1

2147 that a transient guest or visitor who violates subsection (1)  
2148 leave the premises immediately. A person who refuses to leave  
2149 the premises commits the offense of trespass as provided in s.  
2150 810.08, and the operator may call a law enforcement officer to  
2151 have the person and his or her property removed under the  
2152 supervision of the officer. A law enforcement officer is not  
2153 liable for any claim involving the removal of the person or  
2154 property from the recreational vehicle park under this section,  
2155 except as provided in s. 768.28. If conditions do not allow for  
2156 immediate removal of the person's property, he or she may  
2157 arrange a reasonable time, not to exceed 48 hours, with the  
2158 operator to come remove the property, accompanied by a law  
2159 enforcement officer.

2160 Section 44. For the purpose of incorporating the amendment  
2161 made by this act to section 768.28, Florida Statutes, in a  
2162 reference thereto, subsection (1) of section 548.046, Florida  
2163 Statutes, is reenacted to read:

2164 548.046 Physician's attendance at match; examinations;  
2165 cancellation of match.—

2166 (1) The commission, or the commission representative, shall  
2167 assign to each match at least one physician who shall observe  
2168 the physical condition of the participants and advise the  
2169 commissioner or commission representative in charge and the  
2170 referee of the participants' conditions before, during, and  
2171 after the match. The commission shall establish a schedule of  
2172 fees for the physician's services. The physician's fee shall be  
2173 paid by the promoter of the match attended by the physician. The  
2174 physician shall be considered an agent of the commission in  
2175 determining the state insurance coverage and sovereign immunity

595-03397-26

20261366c1

2176 protection applicability of ss. 284.31 and 768.28.

2177 Section 45. For the purpose of incorporating the amendment  
2178 made by this act to section 768.28, Florida Statutes, in a  
2179 reference thereto, subsection (8) of section 556.106, Florida  
2180 Statutes, is reenacted to read:

2181 556.106 Liability of the member operator, excavator, and  
2182 system.—

2183 (8) Any liability of the state, its agencies, or its  
2184 subdivisions which arises out of this chapter is subject to the  
2185 provisions of s. 768.28.

2186 Section 46. For the purpose of incorporating the amendment  
2187 made by this act to section 768.28, Florida Statutes, in a  
2188 reference thereto, paragraph (e) of subsection (4) of section  
2189 589.19, Florida Statutes, is reenacted to read:

2190 589.19 Creation of certain state forests; naming of certain  
2191 state forests; Operation Outdoor Freedom Program.—

2192 (4)

2193 (e)1. A private landowner who provides land for designation  
2194 and use as an Operation Outdoor Freedom Program hunting site  
2195 shall have limited liability pursuant to s. 375.251.

2196 2. A private landowner who consents to the designation and  
2197 use of land as part of the Operation Outdoor Freedom Program  
2198 without compensation shall be considered a volunteer, as defined  
2199 in s. 110.501, and shall be covered by state liability  
2200 protection pursuant to s. 768.28, including s. 768.28(9).

2201 3. This subsection does not:

2202 a. Relieve any person of liability that would otherwise  
2203 exist for deliberate, willful, or malicious injury to persons or  
2204 property.

595-03397-26

20261366c1

2205 b. Create or increase the liability of any person.

2206 Section 47. For the purpose of incorporating the amendment  
2207 made by this act to section 768.28, Florida Statutes, in  
2208 references thereto, subsections (3) and (4) of section 627.7491,  
2209 Florida Statutes, are reenacted to read:

2210 627.7491 Official law enforcement vehicles; motor vehicle  
2211 insurance requirements.—

2212 (3) Any suit or action brought or maintained against an  
2213 employing agency for damages arising out of tort pursuant to  
2214 this section, including, without limitation, any claim arising  
2215 upon account of an act causing loss of property, personal  
2216 injury, or death, shall be subject to the limitations provided  
2217 in s. 768.28(5).

2218 (4) The requirements of this section may be met by any  
2219 method authorized by s. 768.28(16).

2220 Section 48. For the purpose of incorporating the amendment  
2221 made by this act to section 768.28, Florida Statutes, in a  
2222 reference thereto, paragraph (c) of subsection (2) of section  
2223 723.0611, Florida Statutes, is reenacted to read:

2224 723.0611 Florida Mobile Home Relocation Corporation.—

2225 (2)

2226 (c) The corporation shall, for purposes of s. 768.28, be  
2227 considered an agency of the state. Agents or employees of the  
2228 corporation, members of the board of directors of the  
2229 corporation, or representatives of the Division of Florida  
2230 Condominiums, Timeshares, and Mobile Homes shall be considered  
2231 officers, employees, or agents of the state, and actions against  
2232 them and the corporation shall be governed by s. 768.28.

2233 Section 49. For the purpose of incorporating the amendment

595-03397-26

20261366c1

2234 made by this act to section 768.28, Florida Statutes, in a  
2235 reference thereto, subsection (5) of section 760.11, Florida  
2236 Statutes, is reenacted to read:

2237 760.11 Administrative and civil remedies; construction.—

2238 (5) In any civil action brought under this section, the  
2239 court may issue an order prohibiting the discriminatory practice  
2240 and providing affirmative relief from the effects of the  
2241 practice, including back pay. The court may also award  
2242 compensatory damages, including, but not limited to, damages for  
2243 mental anguish, loss of dignity, and any other intangible  
2244 injuries, and punitive damages. The provisions of ss. 768.72 and  
2245 768.73 do not apply to this section. The judgment for the total  
2246 amount of punitive damages awarded under this section to an  
2247 aggrieved person shall not exceed \$100,000. In any action or  
2248 proceeding under this subsection, the court, in its discretion,  
2249 may allow the prevailing party a reasonable attorney's fee as  
2250 part of the costs. It is the intent of the Legislature that this  
2251 provision for attorney's fees be interpreted in a manner  
2252 consistent with federal case law involving a Title VII action.  
2253 The right to trial by jury is preserved in any such private  
2254 right of action in which the aggrieved person is seeking  
2255 compensatory or punitive damages, and any party may demand a  
2256 trial by jury. The commission's determination of reasonable  
2257 cause is not admissible into evidence in any civil proceeding,  
2258 including any hearing or trial, except to establish for the  
2259 court the right to maintain the private right of action. A civil  
2260 action brought under this section shall be commenced no later  
2261 than 1 year after the date of determination of reasonable cause  
2262 by the commission. The commencement of such action shall divest

595-03397-26

20261366c1

2263 the commission of jurisdiction of the complaint, except that the  
2264 commission may intervene in the civil action as a matter of  
2265 right. Notwithstanding the above, the state and its agencies and  
2266 subdivisions shall not be liable for punitive damages. The total  
2267 amount of recovery against the state and its agencies and  
2268 subdivisions shall not exceed the limitation as set forth in s.  
2269 768.28(5).

2270 Section 50. For the purpose of incorporating the amendment  
2271 made by this act to section 768.28, Florida Statutes, in a  
2272 reference thereto, subsection (4) of section 766.1115, Florida  
2273 Statutes, is reenacted to read:

2274 766.1115 Health care providers; creation of agency  
2275 relationship with governmental contractors.—

2276 (4) CONTRACT REQUIREMENTS.—A health care provider that  
2277 executes a contract with a governmental contractor to deliver  
2278 health care services on or after April 17, 1992, as an agent of  
2279 the governmental contractor is an agent for purposes of s.  
2280 768.28(9), while acting within the scope of duties under the  
2281 contract, if the contract complies with the requirements of this  
2282 section and regardless of whether the individual treated is  
2283 later found to be ineligible. A health care provider shall  
2284 continue to be an agent for purposes of s. 768.28(9) for 30 days  
2285 after a determination of ineligibility to allow for treatment  
2286 until the individual transitions to treatment by another health  
2287 care provider. A health care provider under contract with the  
2288 state may not be named as a defendant in any action arising out  
2289 of medical care or treatment provided on or after April 17,  
2290 1992, under contracts entered into under this section. The  
2291 contract must provide that:

595-03397-26

20261366c1

2292 (a) The right of dismissal or termination of any health  
2293 care provider delivering services under the contract is retained  
2294 by the governmental contractor.

2295 (b) The governmental contractor has access to the patient  
2296 records of any health care provider delivering services under  
2297 the contract.

2298 (c) Adverse incidents and information on treatment outcomes  
2299 must be reported by any health care provider to the governmental  
2300 contractor if the incidents and information pertain to a patient  
2301 treated under the contract. The health care provider shall  
2302 submit the reports required by s. 395.0197. If an incident  
2303 involves a professional licensed by the Department of Health or  
2304 a facility licensed by the Agency for Health Care  
2305 Administration, the governmental contractor shall submit such  
2306 incident reports to the appropriate department or agency, which  
2307 shall review each incident and determine whether it involves  
2308 conduct by the licensee that is subject to disciplinary action.  
2309 All patient medical records and any identifying information  
2310 contained in adverse incident reports and treatment outcomes  
2311 which are obtained by governmental entities under this paragraph  
2312 are confidential and exempt from the provisions of s. 119.07(1)  
2313 and s. 24(a), Art. I of the State Constitution.

2314 (d) Patient selection and initial referral must be made by  
2315 the governmental contractor or the provider. Patients may not be  
2316 transferred to the provider based on a violation of the  
2317 antidumping provisions of the Omnibus Budget Reconciliation Act  
2318 of 1989, the Omnibus Budget Reconciliation Act of 1990, or  
2319 chapter 395.

2320 (e) If emergency care is required, the patient need not be

595-03397-26

20261366c1

2321 referred before receiving treatment, but must be referred within  
2322 48 hours after treatment is commenced or within 48 hours after  
2323 the patient has the mental capacity to consent to treatment,  
2324 whichever occurs later.

2325 (f) The provider is subject to supervision and regular  
2326 inspection by the governmental contractor.

2327 (g) As an agent of the governmental contractor for purposes  
2328 of s. 768.28(9), while acting within the scope of duties under  
2329 the contract, a health care provider licensed under chapter 466  
2330 may allow a patient, or a parent or guardian of the patient, to  
2331 voluntarily contribute a monetary amount to cover costs of  
2332 dental laboratory work related to the services provided to the  
2333 patient. This contribution may not exceed the actual cost of the  
2334 dental laboratory charges.

2335

2336 A governmental contractor that is also a health care provider is  
2337 not required to enter into a contract under this section with  
2338 respect to the health care services delivered by its employees.

2339 Section 51. For the purpose of incorporating the amendment  
2340 made by this act to section 768.28, Florida Statutes, in a  
2341 reference thereto, subsection (2) of section 766.112, Florida  
2342 Statutes, is reenacted to read:

2343 766.112 Comparative fault.—

2344 (2) In an action for damages for personal injury or  
2345 wrongful death arising out of medical negligence, whether in  
2346 contract or tort, when an apportionment of damages pursuant to  
2347 s. 768.81 is attributed to a board of trustees of a state  
2348 university, the court shall enter judgment against the board of  
2349 trustees on the basis of the board's percentage of fault and not

595-03397-26

20261366c1

2350 on the basis of the doctrine of joint and several liability. The  
2351 sole remedy available to a claimant to collect a judgment or  
2352 settlement against a board of trustees, subject to the  
2353 provisions of this subsection, shall be pursuant to s. 768.28.

2354 Section 52. For the purpose of incorporating the amendment  
2355 made by this act to section 768.28, Florida Statutes, in a  
2356 reference thereto, subsection (3) of section 768.1355, Florida  
2357 Statutes, is reenacted to read:

2358 768.1355 Florida Volunteer Protection Act.—

2359 (3) Members of elected or appointed boards, councils, and  
2360 commissions of the state, counties, municipalities, authorities,  
2361 and special districts shall incur no civil liability and shall  
2362 have immunity from suit as provided in s. 768.28 for acts or  
2363 omissions by members relating to members' conduct of their  
2364 official duties. It is the intent of the Legislature to  
2365 encourage our best and brightest people to serve on elected and  
2366 appointed boards, councils, and commissions.

2367 Section 53. For the purpose of incorporating the amendment  
2368 made by this act to section 768.28, Florida Statutes, in a  
2369 reference thereto, subsection (7) of section 768.1382, Florida  
2370 Statutes, is reenacted to read:

2371 768.1382 Streetlights, security lights, and other similar  
2372 illumination; limitation on liability.—

2373 (7) In the event that there is any conflict between this  
2374 section and s. 768.81, or any other section of the Florida  
2375 Statutes, this section shall control. Further, nothing in this  
2376 section shall impact or waive any provision of s. 768.28.

2377 Section 54. For the purpose of incorporating the amendment  
2378 made by this act to section 768.28, Florida Statutes, in a

595-03397-26

20261366c1

2379 reference thereto, subsection (4) of section 768.295, Florida  
2380 Statutes, is reenacted to read:

2381       768.295 Strategic Lawsuits Against Public Participation  
2382 (SLAPP) prohibited.—

2383       (4) A person or entity sued by a governmental entity or  
2384 another person in violation of this section has a right to an  
2385 expeditious resolution of a claim that the suit is in violation  
2386 of this section. A person or entity may move the court for an  
2387 order dismissing the action or granting final judgment in favor  
2388 of that person or entity. The person or entity may file a motion  
2389 for summary judgment, together with supplemental affidavits,  
2390 seeking a determination that the claimant's or governmental  
2391 entity's lawsuit has been brought in violation of this section.  
2392 The claimant or governmental entity shall thereafter file a  
2393 response and any supplemental affidavits. As soon as  
2394 practicable, the court shall set a hearing on the motion, which  
2395 shall be held at the earliest possible time after the filing of  
2396 the claimant's or governmental entity's response. The court may  
2397 award, subject to the limitations in s. 768.28, the party sued  
2398 by a governmental entity actual damages arising from a  
2399 governmental entity's violation of this section. The court shall  
2400 award the prevailing party reasonable attorney fees and costs  
2401 incurred in connection with a claim that an action was filed in  
2402 violation of this section.

2403       Section 55. For the purpose of incorporating the amendment  
2404 made by this act to section 768.28, Florida Statutes, in a  
2405 reference thereto, section 946.5026, Florida Statutes, is  
2406 reenacted to read:

2407       946.5026 Sovereign immunity in tort actions.—The provisions

595-03397-26

20261366c1

2408 of s. 768.28 shall be applicable to the corporation established  
2409 under this part, which is deemed to be a corporation primarily  
2410 acting as an instrumentality of the state.

2411 Section 56. For the purpose of incorporating the amendment  
2412 made by this act to section 768.28, Florida Statutes, in a  
2413 reference thereto, subsection (3) of section 946.514, Florida  
2414 Statutes, is reenacted to read:

2415 946.514 Civil rights of inmates; inmates not state  
2416 employees; liability of corporation for inmate injuries.—

2417 (3) The corporation is liable for inmate injury to the  
2418 extent specified in s. 768.28; however, the members of the board  
2419 of directors are not individually liable to any inmate for any  
2420 injury sustained in any correctional work program operated by  
2421 the corporation.

2422 Section 57. For the purpose of incorporating the amendment  
2423 made by this act to section 768.28, Florida Statutes, in a  
2424 reference thereto, subsection (8) of section 961.06, Florida  
2425 Statutes, is reenacted to read:

2426 961.06 Compensation for wrongful incarceration.—

2427 (8) Any payment made under this act does not constitute a  
2428 waiver of any defense of sovereign immunity or an increase in  
2429 the limits of liability on behalf of the state or any person  
2430 subject to s. 768.28 or any other law.

2431 Section 58. For the purpose of incorporating the amendment  
2432 made by this act to section 768.28, Florida Statutes, in a  
2433 reference thereto, subsection (3) of section 984.09, Florida  
2434 Statutes, is reenacted to read:

2435 984.09 Punishment for contempt of court; alternative  
2436 sanctions.—

595-03397-26

20261366c1

2437 (3) ALTERNATIVE SANCTIONS.—Upon determining that a child  
2438 has committed direct contempt of court or indirect contempt of a  
2439 valid court order, the court may immediately request the circuit  
2440 alternative sanctions coordinator to recommend the most  
2441 appropriate available alternative sanction and shall order the  
2442 child to perform up to 50 hours of community service or a  
2443 similar alternative sanction, unless an alternative sanction is  
2444 unavailable or inappropriate, or unless the child has failed to  
2445 comply with a prior alternative sanction. Alternative contempt  
2446 sanctions may be provided by local industry or by any nonprofit  
2447 organization or any public or private business or service entity  
2448 that has entered into a contract with the department to act as  
2449 an agent of the state to provide voluntary supervision of  
2450 children on behalf of the state in exchange for the labor of  
2451 children and limited immunity in accordance with s. 768.28(11).

2452 Section 59. For the purpose of incorporating the amendment  
2453 made by this act to section 768.28, Florida Statutes, in a  
2454 reference thereto, paragraph (h) of subsection (12) of section  
2455 1002.33, Florida Statutes, is reenacted to read:

2456 1002.33 Charter schools.—

2457 (12) EMPLOYEES OF CHARTER SCHOOLS.—

2458 (h) For the purposes of tort liability, the charter school,  
2459 including its governing body and employees, shall be governed by  
2460 s. 768.28. This paragraph does not include any for-profit entity  
2461 contracted by the charter school or its governing body.

2462 Section 60. For the purpose of incorporating the amendment  
2463 made by this act to section 768.28, Florida Statutes, in a  
2464 reference thereto, paragraph (b) of subsection (6) of section  
2465 1002.333, Florida Statutes, is reenacted to read:

595-03397-26

20261366c1

2466 1002.333 Persistently low-performing schools.—

2467 (6) STATUTORY AUTHORITY.—

2468 (b) For the purposes of tort liability, the hope operator,  
2469 the school of hope, and its employees or agents shall be  
2470 governed by s. 768.28. The sponsor shall not be liable for civil  
2471 damages under state law for the employment actions or personal  
2472 injury, property damage, or death resulting from an act or  
2473 omission of a hope operator, the school of hope, or its  
2474 employees or agents. This paragraph does not include any for-  
2475 profit entity contracted by the charter school or its governing  
2476 body.

2477 Section 61. For the purpose of incorporating the amendment  
2478 made by this act to section 768.28, Florida Statutes, in a  
2479 reference thereto, subsection (17) of section 1002.34, Florida  
2480 Statutes, is reenacted to read:

2481 1002.34 Charter technical career centers.—

2482 (17) IMMUNITY.—For the purposes of tort liability, the  
2483 governing body and employees of a center are governed by s.  
2484 768.28.

2485 Section 62. For the purpose of incorporating the amendment  
2486 made by this act to section 768.28, Florida Statutes, in a  
2487 reference thereto, subsection (2) of section 1002.37, Florida  
2488 Statutes, is reenacted to read:

2489 1002.37 The Florida Virtual School.—

2490 (2) The Florida Virtual School shall be governed by a board  
2491 of trustees comprised of seven members appointed by the Governor  
2492 to 4-year staggered terms. The board of trustees shall be a  
2493 public agency entitled to sovereign immunity pursuant to s.  
2494 768.28, and board members shall be public officers who shall

595-03397-26

20261366c1

2495 bear fiduciary responsibility for the Florida Virtual School.  
2496 The board of trustees shall have the following powers and  
2497 duties:

2498 (a)1. The board of trustees shall meet at least 4 times  
2499 each year, upon the call of the chair, or at the request of a  
2500 majority of the membership.

2501 2. The fiscal year for the Florida Virtual School shall be  
2502 the state fiscal year as provided in s. 216.011(1)(q).

2503 (b) The board of trustees shall be responsible for the  
2504 Florida Virtual School's development of a state-of-the-art  
2505 technology-based education delivery system that is cost-  
2506 effective, educationally sound, marketable, and capable of  
2507 sustaining a self-sufficient delivery system through the Florida  
2508 Education Finance Program.

2509 (c) The board of trustees shall aggressively seek avenues  
2510 to generate revenue to support its future endeavors, and shall  
2511 enter into agreements with distance learning providers. The  
2512 board of trustees may acquire, enjoy, use, and dispose of  
2513 patents, copyrights, and trademarks and any licenses and other  
2514 rights or interests thereunder or therein. Ownership of all such  
2515 patents, copyrights, trademarks, licenses, and rights or  
2516 interests thereunder or therein shall vest in the state, with  
2517 the board of trustees having full right of use and full right to  
2518 retain the revenues derived therefrom. Any funds realized from  
2519 patents, copyrights, trademarks, or licenses shall be considered  
2520 internal funds as provided in s. 1011.07. Such funds shall be  
2521 used to support the school's marketing and research and  
2522 development activities in order to improve courseware and  
2523 services to its students.

595-03397-26

20261366c1

2524 (d) The board of trustees shall be responsible for the  
2525 administration and control of all local school funds derived  
2526 from all activities or sources and shall prescribe the  
2527 principles and procedures to be followed in administering these  
2528 funds.

2529 (e) The Florida Virtual School may accrue supplemental  
2530 revenue from supplemental support organizations, which include,  
2531 but are not limited to, alumni associations, foundations,  
2532 parent-teacher associations, and booster associations. The  
2533 governing body of each supplemental support organization shall  
2534 recommend the expenditure of moneys collected by the  
2535 organization for the benefit of the school. Such expenditures  
2536 shall be contingent upon the review of the executive director.  
2537 The executive director may override any proposed expenditure of  
2538 the organization that would violate Florida law or breach sound  
2539 educational management.

2540 (f) In accordance with law and rules of the State Board of  
2541 Education, the board of trustees shall administer and maintain  
2542 personnel programs for all employees of the board of trustees  
2543 and the Florida Virtual School. The board of trustees may adopt  
2544 rules, policies, and procedures related to the appointment,  
2545 employment, and removal of personnel.

2546 1. The board of trustees shall determine the compensation,  
2547 including salaries and fringe benefits, and other conditions of  
2548 employment for such personnel.

2549 2. The board of trustees may establish and maintain a  
2550 personnel loan or exchange program by which persons employed by  
2551 the board of trustees for the Florida Virtual School as academic  
2552 administrative and instructional staff may be loaned to, or

595-03397-26

20261366c1

2553 exchanged with persons employed in like capacities by, public  
2554 agencies either within or without this state, or by private  
2555 industry. With respect to public agency employees, the program  
2556 authorized by this subparagraph shall be consistent with the  
2557 requirements of part II of chapter 112. The salary and benefits  
2558 of board of trustees personnel participating in the loan or  
2559 exchange program shall be continued during the period of time  
2560 they participate in a loan or exchange program, and such  
2561 personnel shall be deemed to have no break in creditable or  
2562 continuous service or employment during such time. The salary  
2563 and benefits of persons participating in the personnel loan or  
2564 exchange program who are employed by public agencies or private  
2565 industry shall be paid by the originating employers of those  
2566 participants, and such personnel shall be deemed to have no  
2567 break in creditable or continuous service or employment during  
2568 such time.

2569       3. The employment of all Florida Virtual School academic  
2570 administrative and instructional personnel shall be subject to  
2571 rejection for cause by the board of trustees, and shall be  
2572 subject to policies of the board of trustees relative to  
2573 certification, tenure, leaves of absence, sabbaticals,  
2574 remuneration, and such other conditions of employment as the  
2575 board of trustees deems necessary and proper, not inconsistent  
2576 with law.

2577       4. Each person employed by the board of trustees in an  
2578 academic administrative or instructional capacity with the  
2579 Florida Virtual School shall be entitled to a contract as  
2580 provided by rules of the board of trustees.

2581       5. All employees except temporary, seasonal, and student

595-03397-26

20261366c1

2582 employees may be state employees for the purpose of being  
2583 eligible to participate in the Florida Retirement System and  
2584 receive benefits. The classification and pay plan, including  
2585 terminal leave and other benefits, and any amendments thereto,  
2586 shall be subject to review and approval by the Department of  
2587 Management Services and the Executive Office of the Governor  
2588 prior to adoption.

2589 (g) The board of trustees shall establish priorities for  
2590 admission of students in accordance with paragraph (1)(b).

2591 (h) The board of trustees shall establish and distribute to  
2592 all school districts and high schools in the state procedures  
2593 for enrollment of students in courses offered by the Florida  
2594 Virtual School.

2595 (i) The board of trustees shall establish criteria defining  
2596 the elements of an approved franchise. The board of trustees may  
2597 enter into franchise agreements with Florida district school  
2598 boards and may establish the terms and conditions governing such  
2599 agreements. The board of trustees shall establish the  
2600 performance and accountability measures and report the  
2601 performance of each school district franchise to the  
2602 Commissioner of Education.

2603 (j) The board of trustees shall submit to the State Board  
2604 of Education both forecasted and actual enrollments and credit  
2605 completions for the Florida Virtual School, according to  
2606 procedures established by the State Board of Education. At a  
2607 minimum, such procedures must include the number of public,  
2608 private, and home education students served by program and by  
2609 county of residence.

2610 (k) The board of trustees shall provide for the content and

595-03397-26

20261366c1

2611 custody of student and employee personnel records. Student  
2612 records shall be subject to the provisions of s. 1002.22.  
2613 Employee records shall be subject to the provisions of s.  
2614 1012.31.

2615 (1) The financial records and accounts of the Florida  
2616 Virtual School shall be maintained under the direction of the  
2617 board of trustees and under rules adopted by the State Board of  
2618 Education for the uniform system of financial records and  
2619 accounts for the schools of the state.

2620

2621 The Governor shall designate the initial chair of the board of  
2622 trustees to serve a term of 4 years. Members of the board of  
2623 trustees shall serve without compensation, but may be reimbursed  
2624 for per diem and travel expenses pursuant to s. 112.061. The  
2625 board of trustees shall be a body corporate with all the powers  
2626 of a body corporate and such authority as is needed for the  
2627 proper operation and improvement of the Florida Virtual School.  
2628 The board of trustees is specifically authorized to adopt rules,  
2629 policies, and procedures, consistent with law and rules of the  
2630 State Board of Education related to governance, personnel,  
2631 budget and finance, administration, programs, curriculum and  
2632 instruction, travel and purchasing, technology, students,  
2633 contracts and grants, and property as necessary for optimal,  
2634 efficient operation of the Florida Virtual School. Tangible  
2635 personal property owned by the board of trustees shall be  
2636 subject to the provisions of chapter 273.

2637 Section 63. For the purpose of incorporating the amendment  
2638 made by this act to section 768.28, Florida Statutes, in a  
2639 reference thereto, paragraph (1) of subsection (3) of section

595-03397-26

20261366c1

2640 1002.55, Florida Statutes, is reenacted to read:

2641 1002.55 School-year prekindergarten program delivered by  
2642 private prekindergarten providers.—

2643 (3) To be eligible to deliver the prekindergarten program,  
2644 a private prekindergarten provider must meet each of the  
2645 following requirements:

2646 (1) Notwithstanding paragraph (j), for a private  
2647 prekindergarten provider that is a state agency or a subdivision  
2648 thereof, as defined in s. 768.28(2), the provider must agree to  
2649 notify the coalition of any additional liability coverage  
2650 maintained by the provider in addition to that otherwise  
2651 established under s. 768.28. The provider shall indemnify the  
2652 coalition to the extent permitted by s. 768.28. Notwithstanding  
2653 paragraph (j), for a child development program that is  
2654 accredited by a national accrediting body and operates on a  
2655 military installation that is certified by the United States  
2656 Department of Defense, the provider may demonstrate liability  
2657 coverage by affirming that it is subject to the Federal Tort  
2658 Claims Act, 28 U.S.C. ss. 2671 et seq.

2659 Section 64. For the purpose of incorporating the amendment  
2660 made by this act to section 768.28, Florida Statutes, in a  
2661 reference thereto, subsection (10) of section 1002.83, Florida  
2662 Statutes, is reenacted to read:

2663 1002.83 Early learning coalitions.—

2664 (10) For purposes of tort liability, each member or  
2665 employee of an early learning coalition shall be governed by s.  
2666 768.28.

2667 Section 65. For the purpose of incorporating the amendment  
2668 made by this act to section 768.28, Florida Statutes, in a

595-03397-26

20261366c1

2669 reference thereto, paragraph (p) of subsection (1) of section  
2670 1002.88, Florida Statutes, is reenacted to read:

2671 1002.88 School readiness program provider standards;  
2672 eligibility to deliver the school readiness program.—

2673 (1) To be eligible to deliver the school readiness program,  
2674 a school readiness program provider must:

2675 (p) Notwithstanding paragraph (m), for a provider that is a  
2676 state agency or a subdivision thereof, as defined in s.

2677 768.28(2), agree to notify the coalition of any additional  
2678 liability coverage maintained by the provider in addition to  
2679 that otherwise established under s. 768.28. The provider shall  
2680 indemnify the coalition to the extent permitted by s. 768.28.

2681 Notwithstanding paragraph (m), for a child development program  
2682 that is accredited by a national accrediting body and operates  
2683 on a military installation that is certified by the United  
2684 States Department of Defense, the provider may demonstrate  
2685 liability coverage by affirming that it is subject to the  
2686 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

2687 Section 66. For the purpose of incorporating the amendment  
2688 made by this act to section 768.28, Florida Statutes, in a  
2689 reference thereto, subsection (1) of section 1006.24, Florida  
2690 Statutes, is reenacted to read:

2691 1006.24 Tort liability; liability insurance.—

2692 (1) Each district school board shall be liable for tort  
2693 claims arising out of any incident or occurrence involving a  
2694 school bus or other motor vehicle owned, maintained, operated,  
2695 or used by the district school board to transport persons, to  
2696 the same extent and in the same manner as the state or any of  
2697 its agencies or subdivisions is liable for tort claims under s.

595-03397-26

20261366c1

2698 768.28, except that the total liability to persons being  
2699 transported for all claims or judgments of such persons arising  
2700 out of the same incident or occurrence shall not exceed an  
2701 amount equal to \$5,000 multiplied by the rated seating capacity  
2702 of the school bus or other vehicle, as determined by rules of  
2703 the State Board of Education, or \$100,000, whichever is greater.  
2704 The provisions of s. 768.28 apply to all claims or actions  
2705 brought against district school boards, as authorized in this  
2706 subsection.

2707 Section 67. For the purpose of incorporating the amendment  
2708 made by this act to section 768.28, Florida Statutes, in a  
2709 reference thereto, paragraph (b) of subsection (2) of section  
2710 1006.261, Florida Statutes, is reenacted to read:

2711 1006.261 Use of school buses for public purposes.-

2712 (2)

2713 (b) For purposes of liability for negligence, state  
2714 agencies or subdivisions as defined in s. 768.28(2) shall be  
2715 covered by s. 768.28. Every other corporation or organization  
2716 shall provide liability insurance coverage in the minimum  
2717 amounts of \$100,000 on any claim or judgment and \$200,000 on all  
2718 claims and judgments arising from the same incident or  
2719 occurrence.

2720 Section 68. This act shall take effect October 1, 2026.