



401768

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/AD/2R	.	Floor: C
03/10/2026 05:25 PM	.	03/12/2026 01:47 PM
	.	

---

Senator Brodeur moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

(1) In accordance with s. 13, Art. X of the State



401768

12 Constitution, the state, for itself and for its agencies or  
13 subdivisions, hereby waives sovereign immunity for liability for  
14 torts, but only to the extent specified in this section ~~act~~.  
15 Actions at law against the state or any of its agencies or  
16 subdivisions to recover damages in tort for money damages  
17 against the state or its agencies or subdivisions for injury or  
18 loss of property, personal injury, or death caused by the  
19 negligent or wrongful act or omission of any employee of the  
20 agency or subdivision while acting within the scope of the  
21 employee's office or employment under circumstances in which the  
22 state or such agency or subdivision, if a private person, would  
23 be liable to the claimant, in accordance with the general laws  
24 of this state, may be prosecuted subject to the limitations  
25 specified in this section ~~act~~. Any authorized ~~such~~ action may be  
26 brought in the county where the property in litigation is  
27 located or, if the affected agency or subdivision has an office  
28 in the ~~such~~ county for the transaction of its customary  
29 business, where the cause of action accrued. However, an ~~any~~  
30 ~~such~~ action against a state university board of trustees must  
31 ~~shall~~ be brought in the county in which that university's main  
32 campus is located or in the county in which the cause of action  
33 accrued if the university maintains ~~therein~~ a substantial  
34 presence for the transaction of its customary business in that  
35 county.

36 (2) As used in this act, "state agencies or subdivisions"  
37 include the executive departments, the Legislature, the judicial  
38 branch (including public defenders), and the independent  
39 establishments of the state, including state university boards  
40 of trustees; counties and municipalities; and corporations



401768

41 primarily acting as instrumentalities or agencies of the state,  
42 counties, or municipalities, including the Florida Space  
43 Authority.

44 (3) Except for a municipality and the Florida Space  
45 Authority, the affected agency or subdivision may, at its  
46 discretion, request the assistance of the Department of  
47 Financial Services in the consideration, adjustment, and  
48 settlement of any claim under this section ~~act~~.

49 (4) Subject to the provisions of this section, any state  
50 agency or subdivision may ~~shall have the right to~~ appeal any  
51 award, compromise, settlement, or determination to the court of  
52 appropriate jurisdiction.

53 (5) (a) The state and its agencies and subdivisions are  
54 ~~shall be~~ liable for tort claims in the same manner and to the  
55 same extent as a private individual under like circumstances,  
56 but liability may ~~shall~~ not include punitive damages or interest  
57 for the period before judgment. ~~Neither~~ The state and ~~nor~~ its  
58 agencies or subdivisions are not ~~shall be~~ liable to pay a claim  
59 or a judgment by any one person which exceeds the sum of  
60 \$350,000 ~~\$200,000~~ or any claim or judgment, or portions of a  
61 claim or judgment thereof, which, when totaled with all other  
62 claims or judgments paid by the state or its agencies or  
63 subdivisions arising out of the same incident or occurrence,  
64 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or  
65 judgments may be claimed and rendered in excess of these amounts  
66 and may be settled and paid pursuant to this section ~~act~~ up to  
67 \$350,000 ~~\$200,000~~ or \$500,000. Any ~~\$300,000, as the case may be,~~  
68 ~~and that~~ portion of the judgment that exceeds these amounts may  
69 be reported to the Legislature, but may be paid in part or in



401768

70 whole only by further act of the Legislature.

71 (b) Notwithstanding the limited waiver of sovereign  
72 immunity in paragraph (a) provided herein, the state or an  
73 agency or subdivision of the state thereof may agree, within the  
74 limits of insurance coverage provided, to settle a claim made or  
75 a judgment rendered against it without further action by the  
76 Legislature, but the state or agency or subdivision of the state  
77 may thereof shall not be deemed to have waived any defense of  
78 sovereign immunity or to have increased the limits of its  
79 liability as a result of its obtaining insurance coverage for  
80 tortious acts in excess of the \$350,000 ~~\$200,000~~ or \$500,000  
81 ~~\$300,000~~ waiver in paragraph (a) provided above.

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

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

98 (6) (a) An action may not be instituted on a claim against



401768

99 the state or one of its agencies or subdivisions unless the  
100 claimant presents the claim in writing to the appropriate  
101 agency, and also, except as to any claim against a municipality,  
102 county, or the Florida Space Authority, presents the ~~such~~ claim  
103 in writing to the Department of Financial Services, within 18  
104 months ~~3 years~~ after the ~~such~~ claim accrues and the Department  
105 of Financial Services or the appropriate agency denies the claim  
106 in writing; except that, if:

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

115 2. The ~~Such~~ action arises from a violation of s. 794.011  
116 involving a victim who was younger than 16 years of age at the  
117 time of the act, the claimant may present the claim in writing  
118 at any time. This subparagraph applies to any action other than  
119 an action that would have been time barred on or before October  
120 1, 2026 ~~is for wrongful death, the claimant must present the~~  
121 ~~claim in writing to the Department of Financial Services within~~  
122 ~~2 years after the claim accrues.~~

123 (b) For purposes of this section, the requirements of  
124 notice to the agency and denial of the claim pursuant to  
125 paragraph (a) are conditions precedent to maintaining an action  
126 but may ~~shall~~ not be deemed to be elements of the cause of  
127 action and do ~~shall~~ not affect the date on which the cause of



401768

128 action accrues.

129 (c) The claimant shall also provide to the agency the  
130 claimant's date and place of birth and social security number if  
131 the claimant is an individual, or a federal identification  
132 number if the claimant is not an individual. The claimant shall  
133 also state the case style, tribunal, the nature and amount of  
134 all adjudicated penalties, fines, fees, victim restitution fund,  
135 and other judgments in excess of \$200, whether imposed by a  
136 civil, criminal, or administrative tribunal, owed by the  
137 claimant to the state, its agency, officer or subdivision. If  
138 there exists no prior adjudicated unpaid claim in excess of  
139 \$200, the claimant shall so state.

140 (d) For purposes of this section, complete, accurate, and  
141 timely compliance with the requirements of paragraph (c) must  
142 ~~shall~~ occur before ~~prior to~~ settlement payment, close of  
143 discovery, or commencement of trial, whichever is earlier  
144 ~~sooner~~; provided the ability to plead setoff is not precluded by  
145 the delay. This setoff applies ~~shall apply~~ only against that  
146 part of the settlement or judgment payable to the claimant,  
147 minus claimant's reasonable attorney ~~attorney's~~ fees and costs.  
148 Incomplete or inaccurate disclosure of unpaid adjudicated claims  
149 due the state, or ~~r~~ its agency, officer, or subdivision, may be  
150 excused by the court upon a showing by the preponderance of the  
151 evidence of the claimant's lack of knowledge of an adjudicated  
152 claim and reasonable inquiry by, or on behalf of, the claimant  
153 to obtain the information from public records. Unless the  
154 appropriate agency had actual notice of the information required  
155 to be disclosed by paragraph (c) in time to assert a setoff, an  
156 unexcused failure to disclose shall, upon hearing and order of



401768

157 court, cause the claimant to be liable for double the original  
158 undisclosed judgment and, upon further motion, the court shall  
159 enter judgment for the agency in that amount. Except as provided  
160 otherwise in this subsection, the failure of the Department of  
161 Financial Services or the appropriate agency to make final  
162 disposition of a claim within 4 ~~6~~ months after it is filed shall  
163 be deemed a final denial of the claim for purposes of this  
164 section. For purposes of this subsection, in medical malpractice  
165 actions and in wrongful death actions, the failure of the  
166 Department of Financial Services or the appropriate agency to  
167 make final disposition of a claim within 90 days after it is  
168 filed shall be deemed a final denial of the claim. The statute  
169 of limitations ~~for medical malpractice actions and wrongful~~  
170 ~~death actions~~ is tolled as to all prospective defendants for the  
171 period of time taken by the Department of Financial Services or  
172 the appropriate agency to deny the claim. ~~The provisions of This~~  
173 subsection does ~~de~~ not apply to ~~such~~ claims that ~~as~~ may be  
174 asserted by counterclaim pursuant to s. 768.14.

175 (7) In actions brought pursuant to this section, process  
176 must ~~shall~~ be served upon the head of the agency concerned and  
177 also, except as to a defendant municipality, county, or the  
178 Florida Space Authority, upon the Department of Financial  
179 Services. ~~and~~ The department or the agency served has ~~concerned~~  
180 ~~shall have~~ 30 days within which to file responsive pleadings  
181 ~~plead thereto.~~

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

185 (9) (a) An officer, employee, or agent of the state or of



401768

186 any of its subdivisions may not be held personally liable in  
187 tort or named as a party defendant in any action for any injury  
188 or damage suffered as a result of any act, event, or omission of  
189 action in the scope of her or his employment or function, unless  
190 the ~~such~~ officer, employee, or agent acted in bad faith or with  
191 malicious purpose or in a manner exhibiting wanton and willful  
192 disregard of human rights, safety, or property. However, the  
193 ~~such~~ officer, employee, or agent shall be considered an adverse  
194 witness in a tort action for any injury or damage suffered as a  
195 result of any act, event, or omission of action in the scope of  
196 her or his employment or function. The exclusive remedy for  
197 injury or damage suffered as a result of an act, event, or  
198 omission of an officer, employee, or agent of the state or any  
199 of its subdivisions or constitutional officers is by action  
200 against the governmental entity, or the head of such entity in  
201 her or his official capacity, or the constitutional officer of  
202 which the officer, employee, or agent is an employee, unless the  
203 ~~such~~ act or omission was committed in bad faith or with  
204 malicious purpose or in a manner exhibiting wanton and willful  
205 disregard of human rights, safety, or property. The state or its  
206 subdivisions are not liable in tort for the acts or omissions of  
207 an officer, employee, or agent committed while acting outside  
208 the course and scope of her or his employment or committed in  
209 bad faith or with malicious purpose or in a manner exhibiting  
210 wanton and willful disregard of human rights, safety, or  
211 property.

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

213 1. "Employee" includes any volunteer firefighter.

214 2. "Officer, employee, or agent" includes, but is not



401768

215 limited to, any health care provider when providing services  
216 pursuant to s. 766.1115; any nonprofit independent college or  
217 university located and chartered in this state which owns or  
218 operates an accredited medical school, and its employees or  
219 agents, when providing patient services pursuant to paragraph  
220 (10) (f); any public defender or her or his employee or agent,  
221 including an assistant public defender or an investigator; and  
222 any member of a Child Protection Team, as defined in s. 39.01,  
223 or any member of a threat management team, as described in s.  
224 1006.07(7), when carrying out her or his duties as a team member  
225 under the control, direction, and supervision of the state or  
226 any of its agencies or subdivisions.

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

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

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

242 2. At the time the law enforcement officer initiates the  
243 pursuit, the officer reasonably believes that the person fleeing



401768

244 has committed a forcible felony as defined in s. 776.08; and

245       3. The pursuit is conducted by the officer pursuant to a  
246 written policy governing high-speed pursuit adopted by the  
247 employing agency. The policy must contain specific procedures  
248 concerning the proper method to initiate and terminate high-  
249 speed pursuit. The law enforcement officer must have received  
250 instructional training from the employing agency on the written  
251 policy governing high-speed pursuit.

252       (10) (a) Health care providers or vendors, or any of their  
253 employees or agents, that have contractually agreed to act as  
254 agents of the Department of Corrections to provide health care  
255 services to inmates of the state correctional system shall be  
256 considered agents of the State of Florida, Department of  
257 Corrections, for the purposes of this section, while acting  
258 within the scope of and pursuant to guidelines established in  
259 their contracts ~~said contract~~ or by rule. The contracts must  
260 ~~shall~~ provide for the indemnification of the state by the agent  
261 for any liabilities incurred up to the limits set out in this  
262 chapter.

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

267       (c) For purposes of this section, regional poison control  
268 centers created in accordance with s. 395.1027 and coordinated  
269 and supervised under the Division of Children's Medical Services  
270 Prevention and Intervention of the Department of Health, or any  
271 of their employees or agents, shall be considered agents of the  
272 State of Florida, Department of Health. Any contracts with



401768

273 poison control centers must provide, to the extent permitted by  
274 law, for the indemnification of the state by the agency for any  
275 liabilities incurred up to the limits set out in this chapter.

276 (d) For the purposes of this section, operators,  
277 dispatchers, and providers of security for rail services and  
278 rail facility maintenance providers in the South Florida Rail  
279 Corridor, or any of their employees or agents, performing ~~such~~  
280 services under contract with and on behalf of the South Florida  
281 Regional Transportation Authority or the Department of  
282 Transportation shall be considered agents of the state while  
283 acting within the scope of and pursuant to guidelines  
284 established in their contracts ~~said contract~~ or by rule.

285 (e) For purposes of this section, a professional firm that  
286 provides monitoring and inspection services of the work required  
287 for state roadway, bridge, or other transportation facility  
288 construction projects, or any employee of a firm performing  
289 those ~~such~~ services, is considered an agent of the Department of  
290 Transportation while acting within the scope of the firm's  
291 contract with the Department of Transportation to ensure that  
292 the project is constructed in conformity with the project's  
293 plans, specifications, and contract provisions. This paragraph  
294 applies to a professional firm that is in direct contract with  
295 the Department of Transportation, as well as any professional  
296 firm providing monitoring and inspection services as a  
297 consultant to the professional firm that is in direct contract  
298 with the Department of Transportation. Any contract with a  
299 professional firm must, to the extent permitted by law, provide  
300 for the indemnification of the Department of Transportation for  
301 any liability, including reasonable attorney fees, incurred up



401768

302 to the limits set out in this chapter to the extent caused by  
303 the negligence of the firm or its employees. This paragraph may  
304 not be construed as designating persons who provide monitoring  
305 and inspection services as employees or agents of the state for  
306 purposes of chapter 440. This paragraph is not applicable to the  
307 professional firm or its employees if involved in an accident  
308 while operating a motor vehicle. This paragraph is not  
309 applicable to a firm engaged by the Department of Transportation  
310 for the design or construction of a state roadway, bridge, or  
311 other transportation facility construction project or to its  
312 employees, agents, or subcontractors.

313 (f) For purposes of this section, any nonprofit independent  
314 college or university located and chartered in this state which  
315 owns or operates an accredited medical school, or any of its  
316 employees or agents, and which has agreed in an affiliation  
317 agreement or other contract to provide, or permit its employees  
318 or agents to provide, patient services as agents of a teaching  
319 hospital, is considered an agent of the teaching hospital while  
320 acting within the scope of and pursuant to guidelines  
321 established in the affiliation agreement or other contract. To  
322 the extent allowed by law, the contract must provide for the  
323 indemnification of the teaching hospital, up to the limits set  
324 out in this chapter, by the agent for any liability incurred  
325 which was caused by the negligence of the college or university  
326 or its employees or agents. The contract must also provide that  
327 those limited portions of the college, university, or medical  
328 school which are directly providing services pursuant to the  
329 contract and which are considered an agent of the teaching  
330 hospital for purposes of this section are deemed to be acting on



401768

331 behalf of a public agency as defined in s. 119.011(2).

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

333 a. "Employee or agent" means an officer, employee, agent,  
334 or servant of a nonprofit independent college or university  
335 located and chartered in this state which owns or operates an  
336 accredited medical school, including, but not limited to, the  
337 faculty of the medical school, any health care practitioner or  
338 licensee as defined in s. 456.001 for which the college or  
339 university is vicariously liable, and the staff or  
340 administrators of the medical school.

341 b. "Patient services" means:

342 (I) Comprehensive health care services as defined in s.  
343 641.19, including any related administrative service, provided  
344 to patients in a teaching hospital;

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

347 (III) Training and supervision of medical students in a  
348 teaching hospital.

349 c. "Teaching hospital" means a teaching hospital as defined  
350 in s. 408.07 which is owned or operated by the state, a county  
351 or municipality, a public health trust, a special taxing  
352 district, a governmental entity having health care  
353 responsibilities, or a not-for-profit entity that operates such  
354 facility as an agent of the state, or a political subdivision of  
355 the state, under a lease or other contract.

356 2. The teaching hospital or the medical school, or its  
357 employees or agents, must provide notice to each patient, or the  
358 patient's legal representative, that the college or university  
359 that owns or operates the medical school and the employees or



401768

360 agents of that college or university are acting as agents of the  
361 teaching hospital and that the exclusive remedy for injury or  
362 damage suffered as the result of any act or omission of the  
363 teaching hospital, the college or university that owns or  
364 operates the medical school, or the employees or agents of the  
365 college or university, while acting within the scope of duties  
366 pursuant to the affiliation agreement or other contract with a  
367 teaching hospital, is by commencement of an action pursuant to  
368 the provisions of this section. This notice requirement may be  
369 met by posting the notice in a place conspicuous to all persons.

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

373 (g) For the purposes of this section, the executive  
374 director of the Board of Nursing, when serving as the state  
375 administrator of the Nurse Licensure Compact pursuant to s.  
376 464.0095, and any administrator, officer, executive director,  
377 employee, or representative of the Interstate Commission of  
378 Nurse Licensure Compact Administrators, when acting within the  
379 scope of their employment, duties, or responsibilities in this  
380 state, are considered agents of the state. The commission shall  
381 pay any claims or judgments pursuant to this section and may  
382 maintain insurance coverage to pay any such claims or judgments.

383 (h) For purposes of this section, the individual appointed  
384 under s. 491.004(8) as the state's delegate on the Counseling  
385 Compact Commission, when serving in that capacity pursuant to s.  
386 491.017, and any administrator, officer, executive director,  
387 employee, or representative of the commission, when acting  
388 within the scope of his or her employment, duties, or



401768

389 responsibilities in this state, is considered an agent of the  
390 state. The commission shall pay any claims or judgments pursuant  
391 to this section and may maintain insurance coverage to pay those  
392 ~~any such~~ claims or judgments.

393 (i) For purposes of this section, the individual appointed  
394 under s. 490.004(7) as the state's commissioner on the  
395 Psychology Interjurisdictional Compact Commission, when serving  
396 in that capacity pursuant to s. 490.0075, and any administrator,  
397 officer, executive director, employee, or representative of the  
398 Psychology Interjurisdictional Compact Commission, when acting  
399 within the scope of his or her employment, duties, or  
400 responsibilities in this state, is considered an agent of the  
401 state. The commission shall pay any claims or judgments pursuant  
402 to this section and may maintain insurance coverage to pay those  
403 ~~any such~~ claims or judgments.

404 (j) For purposes of this section, the representative  
405 appointed from the Board of Medicine and the representative  
406 appointed from the Board of Osteopathic Medicine, when serving  
407 as commissioners of the Interstate Medical Licensure Compact  
408 Commission pursuant to s. 456.4501, and any administrator,  
409 officer, executive director, employee, or representative of the  
410 Interstate Medical Licensure Compact Commission, when acting  
411 within the scope of their employment, duties, or  
412 responsibilities in this state, are considered agents of the  
413 state. The commission shall pay any claims or judgments pursuant  
414 to this section and may maintain insurance coverage to pay those  
415 ~~any such~~ claims or judgments.

416 (k) For purposes of this section, the individuals appointed  
417 under s. 468.1135(4) as the state's delegates on the Audiology



401768

418 and Speech-Language Pathology Interstate Compact Commission,  
419 when serving in that capacity pursuant to s. 468.1335, and any  
420 administrator, officer, executive director, employee, or  
421 representative of the commission, when acting within the scope  
422 of his or her employment, duties, or responsibilities in this  
423 state, is considered an agent of the state. The commission shall  
424 pay any claims or judgments pursuant to this section and may  
425 maintain insurance coverage to pay those ~~any such~~ claims or  
426 judgments.

427 (1) For purposes of this section, the individual appointed  
428 under s. 486.023(5) as the state's delegate on the Physical  
429 Therapy Compact Commission, when serving in that capacity  
430 pursuant to s. 486.112, and any administrator, officer,  
431 executive director, employee, or representative of the Physical  
432 Therapy Compact Commission, when acting within the scope of his  
433 or her employment, duties, or responsibilities in this state, is  
434 considered an agent of the state. The commission shall pay any  
435 claims or judgments pursuant to this section and may maintain  
436 insurance coverage to pay those ~~any such~~ claims or judgments.

437 (11)(a) Providers or vendors, or any of their employees or  
438 agents, that have contractually agreed to act on behalf of the  
439 state as agents of the Department of Juvenile Justice to provide  
440 services to children in need of services, families in need of  
441 services, or juvenile offenders are, solely with respect to such  
442 services, agents of the state for purposes of this section while  
443 acting within the scope of and pursuant to guidelines  
444 established in the contract or by rule. A contract must provide  
445 for the indemnification of the state by the agent for any  
446 liabilities incurred up to the limits set out in this chapter.



401768

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

450 (12) (a) A health care practitioner, as defined in s.  
451 456.001(4), who has contractually agreed to act as an agent of a  
452 state university board of trustees to provide medical services  
453 to a student athlete for participation in or as a result of  
454 intercollegiate athletics, to include team practices, training,  
455 and competitions, shall be considered an agent of the respective  
456 state university board of trustees, for the purposes of this  
457 section, while acting within the scope of and pursuant to  
458 guidelines established in that contract. The contracts must  
459 ~~shall~~ provide for the indemnification of the state by the agent  
460 for any liabilities incurred up to the limits set out in this  
461 chapter.

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

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

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

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

475 (b) Within the limitations provided in s. 768.31(4) for an



401768

476 action for contribution.

477 (c) Within the limitations provided in s. 95.11(5) for an  
478 action for damages arising from medical malpractice or wrongful  
479 death.

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

485 (e) Within 4 years for any other action not specified in  
486 this subsection ~~4 years~~ after the ~~such~~ claim accrues, ~~except~~  
487 ~~that an action for contribution must be commenced within the~~  
488 ~~limitations provided in s. 768.31(4), and an action for damages~~  
489 ~~arising from medical malpractice or wrongful death must be~~  
490 ~~commenced within the limitations for such actions in s.~~  
491 ~~95.11(5).~~

492 (15) An ~~No~~ action may not be brought against the state or  
493 any of its agencies or subdivisions by anyone who unlawfully  
494 participates in a riot, unlawful assembly, public demonstration,  
495 mob violence, or civil disobedience if the claim arises out of  
496 the ~~such~~ riot, unlawful assembly, public demonstration, mob  
497 violence, or civil disobedience. ~~Nothing in~~ This subsection does  
498 ~~not~~ ~~act shall~~ abridge traditional immunities pertaining to  
499 statements made in court.

500 (16) (a) The state and its agencies and subdivisions are  
501 authorized to be self-insured, to enter into risk management  
502 programs, or to purchase liability insurance for whatever  
503 coverage they may choose, or to have any combination thereof, in  
504 anticipation of any claim, judgment, and claims bill that ~~which~~



401768

505 they may be liable to pay pursuant to this section. Agencies or  
506 subdivisions, and sheriffs, that are subject to homogeneous  
507 risks may purchase insurance jointly or may join together as  
508 self-insurers to provide other means of protection against tort  
509 claims, any charter provisions or laws to the contrary  
510 notwithstanding.

511 (b) Claims files maintained by any risk management program  
512 administered by the state, its agencies, and its subdivisions  
513 are confidential and exempt from the provisions of s. 119.07(1)  
514 and s. 24(a), Art. I of the State Constitution until termination  
515 of all litigation and settlement of all claims arising out of  
516 the same incident, although portions of the claims files may  
517 remain exempt, as otherwise provided by law. Claims files  
518 records may be released to other governmental agencies upon  
519 written request and demonstration of need. Any, ~~such~~ records  
520 held by the receiving agency remain confidential and exempt as  
521 provided ~~for~~ in this paragraph.

522 (c) Portions of meetings and proceedings conducted pursuant  
523 to any risk management program administered by the state, its  
524 agencies, or its subdivisions, which relate solely to the  
525 evaluation of claims filed with the risk management program or  
526 which relate solely to offers of compromise of claims filed with  
527 the risk management program are exempt from the provisions of s.  
528 286.011 and s. 24(b), Art. I of the State Constitution. Until  
529 termination of all litigation and settlement of all claims  
530 arising out of the same incident, persons privy to discussions  
531 pertinent to the evaluation of a filed claim are ~~shall~~ not ~~be~~  
532 subject to subpoena in any administrative or civil proceeding  
533 with regard to the content of those discussions.



401768

534 (d) Minutes of the meetings and proceedings of any risk  
535 management program administered by the state, its agencies, or  
536 its subdivisions, which relate solely to the evaluation of  
537 claims filed with the risk management program or which relate  
538 solely to offers of compromise of claims filed with the risk  
539 management program are exempt from ~~the provisions of~~ s.  
540 119.07(1) and s. 24(a), Art. I of the State Constitution until  
541 termination of all litigation and settlement of all claims  
542 arising out of the same incident.

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

546 ~~(18)~~ A ~~No~~ provision of this section, or of any other  
547 section of the Florida Statutes, whether read separately or in  
548 conjunction with any other provision, may not ~~shall~~ be construed  
549 to waive the immunity of the state or any of its agencies from  
550 suit in federal court, as that ~~such~~ immunity is guaranteed by  
551 the Eleventh Amendment to the Constitution of the United States,  
552 unless the ~~such~~ waiver is explicitly and definitely stated to be  
553 a waiver of the immunity of the state and its agencies from suit  
554 in federal court. This subsection may ~~shall~~ not be construed to  
555 mean that the state has at any time previously waived, by  
556 implication, its immunity, or that of any of its agencies, from  
557 suit in federal court through any statute in existence before  
558 ~~prior to~~ June 24, 1984.

559 ~~(18)~~ ~~(19)~~ Neither The state or an ~~nor any~~ agency or  
560 subdivision of the state does not waive ~~waives~~ any defense of  
561 sovereign immunity, or increase ~~increases~~ the limits of its  
562 liability, upon entering into a contract ~~contractual~~



401768

563 ~~relationship~~ with another agency or subdivision of the state.  
564 The ~~Such~~ a contract may ~~must~~ not contain any provision that  
565 requires one party to indemnify or insure the other party for  
566 the other party's negligence or to assume any liability for the  
567 other party's negligence. This does not preclude a party from  
568 requiring a nongovernmental entity to provide ~~such~~  
569 indemnification or insurance. The restrictions of this  
570 subsection do not prohibit ~~prevent~~ a regional water supply  
571 authority from indemnifying and assuming the liabilities of its  
572 member governments for obligations arising from past acts or  
573 omissions at or with property acquired from a member government  
574 by the authority and arising from the acts or omissions of the  
575 authority in performing activities contemplated by an interlocal  
576 agreement. The ~~Such~~ indemnification may not be considered to  
577 increase or otherwise waive the limits of liability to third-  
578 party claimants established by this section.

579 (19)-(20) Every municipality, and any of its agencies ~~agency~~  
580 ~~thereof,~~ may ~~is authorized to undertake to~~ indemnify those  
581 employees who ~~that~~ are exposed to personal liability pursuant to  
582 the Clean Air Act Amendments of 1990, 42 U.S.C.A. ss. 7401 et  
583 seq., and all rules and regulations adopted to implement that  
584 act, for acts performed within the course and scope of their  
585 employment with the municipality or its agency, including, but  
586 not limited to, indemnification pertaining to the holding,  
587 transfer, or disposition of allowances allocated to the  
588 municipality's or its agency's electric generating units, and  
589 the monitoring, submission, certification, and compliance with  
590 permits, permit applications, records, compliance plans, and  
591 reports for those units, when those ~~such~~ acts are performed



401768

592 within the course and scope of their employment with the  
593 municipality or its agency. The authority to indemnify under  
594 this section covers every act by an employee which is ~~when such~~  
595 ~~act~~ is performed within the course and scope of her or his  
596 employment with the municipality or its agency, but does not  
597 cover any act of willful misconduct or any intentional or  
598 knowing violation of any law by the employee. The authority to  
599 indemnify under this section includes, but is not limited to,  
600 the authority to pay any fine and provide legal representation  
601 in any action.

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

604 Section 3. Paragraph (b) of subsection (2) of section  
605 29.0081, Florida Statutes, is amended to read:

606 29.0081 County funding of additional court personnel.—

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

608 (b) The personnel whose employment is funded under the  
609 agreement are hired, supervised, managed, and fired by personnel  
610 of the judicial circuit. The county shall be considered the  
611 employer for purposes of s. 440.10 and chapter 443. Employees  
612 funded by the county under this section and other county  
613 employees may be aggregated for purposes of a flexible benefits  
614 plan pursuant to s. 125 of the Internal Revenue Code of 1986.  
615 The judicial circuit shall supervise the personnel whose  
616 employment is funded under the agreement; be responsible for  
617 compliance with all requirements of federal and state employment  
618 laws, including, but not limited to, Title VII of the Civil  
619 Rights Act of 1964, Title I of the Americans with Disabilities  
620 Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair



401768

621 Labor Standards Act, chapters 447 and 760, and ss. 112.3187,  
622 440.105, and 440.205; and fully indemnify the county from any  
623 liability under such laws, as authorized by s. 768.28(18) ~~s.~~  
624 ~~768.28(19)~~, to the extent such liability is the result of the  
625 acts or omissions of the judicial circuit or its agents or  
626 employees.

627 Section 4. Paragraph (b) of subsection (2) of section  
628 39.8297, Florida Statutes, is amended to read:

629 39.8297 County funding for guardian ad litem employees.—

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

631 (b) The persons who are employed will be hired, supervised,  
632 managed, and terminated by the executive director of the  
633 Statewide Guardian ad Litem Office. The statewide office is  
634 responsible for compliance with all requirements of federal and  
635 state employment laws, and shall fully indemnify the county from  
636 any liability under such laws, as authorized by s. 768.28(18) ~~s.~~  
637 ~~768.28(19)~~, to the extent such liability is the result of the  
638 acts or omissions of the Statewide Guardian ad Litem Office or  
639 its agents or employees.

640 Section 5. Paragraph (a) of subsection (3) of section  
641 343.811, Florida Statutes, is amended to read:

642 343.811 Power to assume indemnification and insurance  
643 obligations.—

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

647 (a) Assume obligations pursuant to the following:

648 1.a. The agency may assume the obligation by contract to  
649 protect, defend, indemnify, and hold harmless FECR and its



401768

650 officers, agents, and employees from and against:

651 (I) Any liability, cost, and expense, including, but not  
652 limited to, the agency's passengers and other rail corridor  
653 invitees in, on, or about the Coastal Link corridor, regardless  
654 of whether the loss, damage, destruction, injury, or death  
655 giving rise to any such liability, cost, or expense is caused in  
656 whole or in part, and to whatever nature or degree, by the  
657 fault, failure, negligence, misconduct, nonfeasance, or  
658 misfeasance of such freight rail operator, its successors, or  
659 its officers, agents, and employees, or any other person or  
660 persons whomsoever.

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

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

668 (I) Any liability, cost, and expense, including, but not  
669 limited to, the agency's passengers and rail corridor invitees  
670 in the Coastal Link corridor, regardless of whether the loss,  
671 damage, destruction, injury, or death giving rise to any such  
672 liability, cost, or expense is caused in whole or in part, and  
673 to whatever nature or degree, by the fault, failure, negligence,  
674 misconduct, nonfeasance, or misfeasance of Brightline, its  
675 successors, or its officers, agents, and employees, or any other  
676 person or persons whomsoever.

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



401768

679 retention amount with respect to limited covered accidents  
680 caused by the agency.

681 2. The assumption of liability of the agency by contract  
682 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may  
683 not in any instance exceed the following parameters of  
684 allocation of risk:

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

690 b.(I) In the event of a limited covered accident caused by  
691 FECR, the authority of an agency to protect, defend, and  
692 indemnify FECR for all liability, cost, and expense, including  
693 punitive or exemplary damages, in excess of the self-insurance  
694 retention amount exists only if FECR agrees, with respect to  
695 such limited covered accident caused by FECR, to protect,  
696 defend, and indemnify the agency for the amount of the self-  
697 insurance retention amount.

698 (II) In the event of a limited covered accident caused by  
699 Brightline, the authority of an agency to protect, defend, and  
700 indemnify Brightline for all liability, cost, and expense,  
701 including punitive or exemplary damages, in excess of the self-  
702 insurance retention amount exists only if Brightline agrees,  
703 with respect to such limited covered accident, to protect,  
704 defend, and indemnify the agency for the amount of the self-  
705 insurance retention amount.

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

707 a. The train is an agency's train, including an incident



401768

708 with trespassers or at-grade crossings, the agency may be solely  
709 responsible for any loss, injury, or damage.

710       b. The train is FECR's train, including an incident with  
711 trespassers or at-grade crossings, FECR is solely responsible  
712 for any loss, injury, or damage, except for the agency's  
713 passengers and other rail corridor invitees, which are the  
714 responsibility of the agency, and Brightline's passengers and  
715 other rail corridor invitees, which are the responsibility of  
716 Brightline.

717       c. The train is Brightline's train, including an incident  
718 with trespassers or at-grade crossings, Brightline is solely  
719 responsible for any loss, injury, or damage, except for the  
720 agency's passengers or rail corridor invitees, which are the  
721 responsibility of the agency, and FECR's rail corridor invitees,  
722 which are the responsibility of FECR.

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

725       a. Its property; passengers; employees, excluding employees  
726 who are, at the time of the incident, rail corridor invitees of  
727 another operator; and other rail corridor invitees.

728       b. Its proportionate share of any loss or damage to the  
729 joint infrastructure.

730       c. Its proportionate share of any loss, injury, or damage  
731 to:

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

736       (II) Trespassers or third parties outside the Coastal Link



401768

737 corridor as a result of the incident.

738         5. Any such contractual duty to protect, defend, indemnify,  
739 and hold harmless FECR or Brightline with respect to claims by  
740 rail passengers shall expressly include a specific cap on the  
741 amount of the contractual duty, which amount may not exceed \$323  
742 million per occurrence and shall be adjusted so that the per-  
743 occurrence insurance requirement is equal to the aggregate  
744 allowable awards to all rail passengers, against all defendants,  
745 for all claims, including claims for punitive damages, arising  
746 from a single accident or incident in accordance with 49 U.S.C.  
747 s. 28103, or any successor provision, without prior legislative  
748 approval.

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

753

754 Neither the assumption by contract to protect, defend,  
755 indemnify, and hold harmless; the purchase of insurance; nor the  
756 establishment of a self-insurance retention fund shall be deemed  
757 to be a waiver of any defense of sovereign immunity for tort  
758 claims or deemed to increase the limits of the agency's  
759 liability for tort claims as provided in s. 768.28.

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

762         944.713 Insurance against liability.—

763         (2) The contract shall provide for indemnification of the  
764 state by the private vendor for any liabilities incurred up to  
765 the limits provided under s. 768.28(5). The contract shall



401768

766 provide that the private vendor, or the insurer of the private  
767 vendor, is liable to pay any claim or judgment for any one  
768 person which does not exceed the applicable maximum amount  
769 provided in s. 768.28(5) sum of \$100,000 or any claim or  
770 judgment, or portions thereof, which, when totaled with all  
771 other claims or judgments arising out of the same incident or  
772 occurrence, does not exceed the sum of \$200,000. In addition,  
773 the contractor must agree to defend, hold harmless, and  
774 indemnify the department against any and all actions, claims,  
775 damages and losses, including costs and attorney's fees.

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

780 45.061 Offers of settlement.—

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

786 Section 8. For the purpose of incorporating the amendment  
787 made by this act to section 768.28, Florida Statutes, in a  
788 reference thereto, paragraph (f) of subsection (6) of section  
789 95.11, Florida Statutes, is reenacted to read:

790 95.11 Limitations other than for the recovery of real  
791 property.—Actions other than for recovery of real property shall  
792 be commenced as follows:

793 (6) WITHIN ONE YEAR.—

794 (f) Except for actions described in subsection (9), or a



401768

795 petition challenging a criminal conviction, all petitions;  
796 extraordinary writs; tort actions, including those under s.  
797 768.28(14); or other actions which concern any condition of  
798 confinement of a prisoner filed by or on behalf of a prisoner as  
799 defined in s. 57.085. Any petition, writ, or action brought  
800 under this paragraph must be commenced within 1 year after the  
801 time the incident, conduct, or conditions occurred or within 1  
802 year after the time the incident, conduct, or conditions were  
803 discovered, or should have been discovered.

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

808 110.504 Volunteer benefits.—

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

812 Section 10. For the purpose of incorporating the amendment  
813 made by this act to section 768.28, Florida Statutes, in a  
814 reference thereto, paragraph (a) of subsection (1) of section  
815 111.071, Florida Statutes, is reenacted to read:

816 111.071 Payment of judgments or settlements against certain  
817 public officers or employees.—

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

822 (a) Any final judgment, including damages, costs, and  
823 attorney's fees, arising from a complaint for damages or injury



401768

824 suffered as a result of any act or omission of action of any  
825 officer, employee, or agent in a civil or civil rights lawsuit  
826 described in s. 111.07. If the civil action arises under s.  
827 768.28 as a tort claim, the limitations and provisions of s.  
828 768.28 governing payment shall apply. If the action is a civil  
829 rights action arising under 42 U.S.C. s. 1983, or similar  
830 federal statutes, payments for the full amount of the judgment  
831 may be made unless the officer, employee, or agent has been  
832 determined in the final judgment to have caused the harm  
833 intentionally.

834 Section 11. For the purpose of incorporating the amendment  
835 made by this act to section 768.28, Florida Statutes, in a  
836 reference thereto, paragraph (b) of subsection (2) of section  
837 125.01015, Florida Statutes, is reenacted to read:

838 125.01015 Office of the sheriff.—

839 (2) To ensure the successful transfer of the exclusive  
840 policing responsibility and authority to the sheriff in a  
841 county, as defined in s. 125.011(1), the board of county  
842 commissioners shall:

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

844 1. Provide funding for all of the necessary staff and  
845 office space for the sheriff-elect to establish an independent  
846 office of the sheriff, so that the office may effectively  
847 operate and perform all of the functions required by general law  
848 when the sheriff-elect takes office.

849 2. Provide funding for the sheriff-elect to select any  
850 necessary insurances not provided by the county through the  
851 interlocal agreement required under sub-subparagraph 6.d. to  
852 allow the sheriff to effectively operate and perform all of the



401768

853 functions required by general law when he or she takes office.

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

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

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

865         6. Notwithstanding any provision to the contrary, for a  
866 term commencing on January 7, 2025, and ending on or after  
867 September 30, 2028, provide the sheriff-elect taking office  
868 with, and require the sheriff-elect taking office to use, not  
869 less than the substantially and materially same support  
870 services, facilities, office space, and information technology  
871 infrastructure provided to county offices or departments  
872 performing the duties to be performed by the sheriff-elect upon  
873 taking office in the 1-year period before he or she takes  
874 office.

875         a. As used in this subparagraph, the term "support  
876 services" includes:

877             (I) Property and facilities, and the management and  
878 maintenance for such property and facilities.

879             (II) Communications infrastructure, including telephone and  
880 Internet connectivity.

881             (III) Risk management, including processing, adjusting, and



401768

882 payment of all claims and demands, including those made under s.  
883 768.28. The county shall provide the sheriff with all required  
884 general liability, property, and other insurance coverage  
885 through its self-insurance program, a self-insurance risk pool,  
886 or commercial insurance. If the county provides insurance  
887 through a self-insurance program, the county must also provide  
888 the sheriff with commercial stop-loss coverage in an amount and  
889 with a self-insured retention agreed upon by the sheriff and the  
890 county.

891 (IV) Legal representation and advice through the office of  
892 the county attorney for all claims, demands, and causes of  
893 action brought against the sheriff, his or her deputies, or  
894 other personnel in their official and individual capacities,  
895 while acting in their official and individual capacities,  
896 including any required outside counsel due to conflicts of  
897 interest. This sub-sub-subparagraph does not prohibit the  
898 sheriff from employing or retaining his or her own legal  
899 representation as he or she deems necessary.

900 (V) Purchasing and procurement services using procedures  
901 under the laws and ordinances applicable to the county for  
902 purchases requiring competitive procurement.

903 (VI) Budget and fiscal software and budget development  
904 services.

905 (VII) Human resource services, including, but not limited  
906 to, facilitation of the hiring process, including employee  
907 applicant screening and employee applicant background checks,  
908 and employee benefit administration. The county may provide  
909 human resource services to the sheriff. However, the sheriff is  
910 the employer of his or her employees, and the sheriff retains



401768

911 full and complete control and authority over the hiring of his  
912 or her employees and the terms and conditions of employment,  
913 including employee discipline and termination of employment. The  
914 provision of human resource services by the county to the  
915 sheriff does not create a joint-employer relationship. The  
916 sheriff's employees shall remain members of the county's health  
917 insurance and workers' compensation plans for at least the term  
918 set forth in this subparagraph.

919 (VIII) Fleet management, including procurement of all  
920 vehicles and other mobile assets such as boats and aircraft, and  
921 all vehicle repair and maintenance.

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

924 (I) All hardware, including computers.

925 (II) Budget and fiscal software, including payroll and  
926 purchasing software.

927 (III) Computer-aided dispatch.

928 c. Under a cost allocation plan agreed to by the county and  
929 the sheriff, the sheriff shall pay the county for such support  
930 services and information technology infrastructure from his or  
931 her general fund budget, except for any support services and  
932 information technology infrastructure costs that general law  
933 otherwise and expressly requires the county to fund outside the  
934 sheriff's budget.

935 d. To satisfy compliance with this subsection and to  
936 establish the office of the sheriff in a manner that minimizes  
937 unnecessary financial expenditures, the county and the sheriff  
938 shall execute an interlocal agreement addressing the  
939 requirements of this subsection and other expenditures,



401768

940 including an appropriate phase-in period for identification of  
941 the sheriff's assets with the sheriff's markings to minimize the  
942 cost to taxpayers. The interlocal agreement shall have a term  
943 that ends no earlier than September 30, 2028, and may be  
944 amended, renewed, extended, or newly adopted at any time  
945 following the expiration or termination of the agreement. After  
946 the initial period ending no earlier than September 30, 2028, an  
947 interlocal agreement may be entered into between the county and  
948 the sheriff which provides for the same or different  
949 requirements as set forth in this subsection.

950 Section 12. For the purpose of incorporating the amendment  
951 made by this act to section 768.28, Florida Statutes, in  
952 references thereto, paragraph (h) of subsection (3) and  
953 paragraph (k) of subsection (15) of section 163.01, Florida  
954 Statutes, are reenacted to read:

955 163.01 Florida Interlocal Cooperation Act of 1969.—

956 (3) As used in this section:

957 (h) "Local government liability pool" means a reciprocal  
958 insurer as defined in s. 629.011 or any self-insurance program  
959 created pursuant to s. 768.28(16), formed and controlled by  
960 counties or municipalities of this state to provide liability  
961 insurance coverage for counties, municipalities, or other public  
962 agencies of this state, which pool may contract with other  
963 parties for the purpose of providing claims administration,  
964 processing, accounting, and other administrative facilities.

965 (15) Notwithstanding any other provision of this section or  
966 of any other law except s. 361.14, any public agency of this  
967 state which is an electric utility, or any separate legal entity  
968 created pursuant to the provisions of this section, the



401768

969 membership of which consists only of electric utilities, and  
970 which exercises or proposes to exercise the powers granted by  
971 part II of chapter 361, the Joint Power Act, may exercise any or  
972 all of the following powers:

973 (k) The limitations on waiver in the provisions of s.  
974 768.28 or any other law to the contrary notwithstanding, the  
975 Legislature, in accordance with s. 13, Art. X of the State  
976 Constitution, hereby declares that any such legal entity or any  
977 public agency of this state that participates in any electric  
978 project waives its sovereign immunity to:

- 979 1. All other persons participating therein; and  
980 2. Any person in any manner contracting with a legal entity  
981 of which any such public agency is a member, with relation to:  
982 a. Ownership, operation, or any other activity set forth in  
983 sub-subparagraph (b)2.d. with relation to any electric project;  
984 or  
985 b. The supplying or purchasing of services, output,  
986 capacity, energy, or any combination thereof.

987 Section 13. For the purpose of incorporating the amendment  
988 made by this act to section 768.28, Florida Statutes, in a  
989 reference thereto, section 190.043, Florida Statutes, is  
990 reenacted to read:

991 190.043 Suits against the district.—Any suit or action  
992 brought or maintained against the district for damages arising  
993 out of tort, including, without limitation, any claim arising  
994 upon account of an act causing an injury or loss of property,  
995 personal injury, or death, shall be subject to the limitations  
996 provided in s. 768.28.

997 Section 14. For the purpose of incorporating the amendment



401768

998 made by this act to section 768.28, Florida Statutes, in a  
999 reference thereto, subsection (13) of section 213.015, Florida  
1000 Statutes, is reenacted to read:

1001       213.015 Taxpayer rights.—There is created a Florida  
1002 Taxpayer’s Bill of Rights to guarantee that the rights, privacy,  
1003 and property of Florida taxpayers are adequately safeguarded and  
1004 protected during tax assessment, collection, and enforcement  
1005 processes administered under the revenue laws of this state. The  
1006 Taxpayer’s Bill of Rights compiles, in one document, brief but  
1007 comprehensive statements which explain, in simple, nontechnical  
1008 terms, the rights and obligations of the Department of Revenue  
1009 and taxpayers. Section 192.0105 provides additional rights  
1010 afforded to payors of property taxes and assessments. The rights  
1011 afforded taxpayers to ensure that their privacy and property are  
1012 safeguarded and protected during tax assessment and collection  
1013 are available only insofar as they are implemented in other  
1014 parts of the Florida Statutes or rules of the Department of  
1015 Revenue. The rights so guaranteed Florida taxpayers in the  
1016 Florida Statutes and the departmental rules are:

1017       (13) The right to an action at law within the limitations  
1018 of s. 768.28, relating to sovereign immunity, to recover damages  
1019 against the state or the Department of Revenue for injury caused  
1020 by the wrongful or negligent act or omission of a department  
1021 officer or employee (see s. 768.28).

1022       Section 15. For the purpose of incorporating the amendment  
1023 made by this act to section 768.28, Florida Statutes, in a  
1024 reference thereto, section 252.51, Florida Statutes, is  
1025 reenacted to read:

1026       252.51 Liability.—Any person or organization, public or



401768

1027 private, owning or controlling real estate or other premises who  
1028 voluntarily and without compensation, other than payment or  
1029 reimbursement of costs and expenses, grants a license or  
1030 privilege or otherwise permits the designation by the local  
1031 emergency management agency or use of the whole or any part of  
1032 such real estate or premises for the purpose of sheltering  
1033 persons during an actual, impending, mock, or practice  
1034 emergency, together with her or his successor in interest, if  
1035 any, shall not be liable for the death of, or injury to, any  
1036 person on or about such real estate or premises during the  
1037 actual, impending, mock, or practice emergency, or for loss of,  
1038 or damage to, the property of such person, solely by reason or  
1039 as a result of such license, privilege, designation, or use,  
1040 unless the gross negligence or the willful and wanton misconduct  
1041 of such person owning or controlling such real estate or  
1042 premises or her or his successor in interest is the proximate  
1043 cause of such death, injury, loss, or damage occurring during  
1044 such sheltering period. Any such person or organization who  
1045 provides such shelter space for compensation shall be deemed to  
1046 be an instrumentality of the state or its applicable agency or  
1047 subdivision for the purposes of s. 768.28.

1048 Section 16. For the purpose of incorporating the amendment  
1049 made by this act to section 768.28, Florida Statutes, in a  
1050 reference thereto, section 252.89, Florida Statutes, is  
1051 reenacted to read:

1052 252.89 Tort liability.—The commission and the committees  
1053 shall be state agencies, and the members of the commission and  
1054 committees shall be officers, employees, or agents of the state  
1055 for the purposes of s. 768.28.



401768

1056           Section 17. For the purpose of incorporating the amendment  
1057 made by this act to section 768.28, Florida Statutes, in a  
1058 reference thereto, section 252.944, Florida Statutes, is  
1059 reenacted to read:

1060           252.944 Tort liability.—The commission and the committees  
1061 are state agencies, and the members of the commission and  
1062 committees are officers, employees, or agents of the state for  
1063 the purpose of s. 768.28.

1064           Section 18. For the purpose of incorporating the amendment  
1065 made by this act to section 768.28, Florida Statutes, in a  
1066 reference thereto, subsection (2) of section 260.0125, Florida  
1067 Statutes, is reenacted to read:

1068           260.0125 Limitation on liability of private landowners  
1069 whose property is designated as part of the statewide system of  
1070 greenways and trails.—

1071           (2) Any private landowner who consents to designation of  
1072 his or her land as part of the statewide system of greenways and  
1073 trails pursuant to s. 260.016(2)(d) without compensation shall  
1074 be considered a volunteer, as defined in s. 110.501, and shall  
1075 be covered by state liability protection pursuant to s. 768.28,  
1076 including s. 768.28(9).

1077           Section 19. For the purpose of incorporating the amendment  
1078 made by this act to section 768.28, Florida Statutes, in a  
1079 reference thereto, section 284.31, Florida Statutes, is  
1080 reenacted to read:

1081           284.31 Scope and types of coverages; separate accounts.—The  
1082 Insurance Risk Management Trust Fund must, unless specifically  
1083 excluded by the Department of Financial Services, cover all  
1084 departments of the State of Florida and their employees, agents,



401768

1085 and volunteers and must provide separate accounts for workers'  
1086 compensation, general liability, fleet automotive liability,  
1087 federal civil rights actions under 42 U.S.C. s. 1983 or similar  
1088 federal statutes, state agency firefighter cancer benefits  
1089 payable under s. 112.1816(2), and court-awarded attorney fees in  
1090 other proceedings against the state except for such awards in  
1091 eminent domain or for inverse condemnation or for awards by the  
1092 Public Employees Relations Commission. Unless specifically  
1093 excluded by the Department of Financial Services, the Insurance  
1094 Risk Management Trust Fund must provide fleet automotive  
1095 liability coverage to motor vehicles titled to the state, or to  
1096 any department of the state, when such motor vehicles are used  
1097 by community transportation coordinators performing, under  
1098 contract to the appropriate department of the state, services  
1099 for the transportation disadvantaged under part I of chapter  
1100 427. Such fleet automotive liability coverage is primary and is  
1101 subject to s. 768.28 and parts II and III of chapter 284, and  
1102 applicable rules adopted thereunder, and the terms and  
1103 conditions of the certificate of coverage issued by the  
1104 Department of Financial Services.

1105 Section 20. For the purpose of incorporating the amendment  
1106 made by this act to section 768.28, Florida Statutes, in  
1107 references thereto, section 284.38, Florida Statutes, is  
1108 reenacted to read:

1109 284.38 Waiver of sovereign immunity; effect.—The insurance  
1110 programs developed herein shall provide limits as established by  
1111 the provisions of s. 768.28 if a tort claim. The limits provided  
1112 in s. 768.28 shall not apply to a civil rights action arising  
1113 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a



401768

1114 pending or future claim or judgment arising under any of said  
1115 statutes may be made upon this act becoming a law, unless the  
1116 officer, employee, or agent has been determined in the final  
1117 judgment to have caused the harm intentionally; however, the  
1118 fund is authorized to pay all other court-ordered attorney's  
1119 fees as provided under s. 284.31.

1120 Section 21. For the purpose of incorporating the amendment  
1121 made by this act to section 768.28, Florida Statutes, in a  
1122 reference thereto, paragraph (b) of subsection (1) of section  
1123 322.13, Florida Statutes, is reenacted to read:

1124 322.13 Driver license examiners.—

1125 (1)

1126 (b) Those persons serving as driver license examiners are  
1127 not liable for actions taken within the scope of their  
1128 employment or designation, except as provided by s. 768.28.

1129 Section 22. For the purpose of incorporating the amendment  
1130 made by this act to section 768.28, Florida Statutes, in a  
1131 reference thereto, subsection (1) of section 337.19, Florida  
1132 Statutes, is reenacted to read:

1133 337.19 Suits by and against department; limitation of  
1134 actions; forum.—

1135 (1) Suits at law and in equity may be brought and  
1136 maintained by and against the department on any contract claim  
1137 arising from breach of an express provision or an implied  
1138 covenant of a written agreement or a written directive issued by  
1139 the department pursuant to the written agreement. In any such  
1140 suit, the department and the contractor shall have all of the  
1141 same rights and obligations as a private person under a like  
1142 contract except that no liability may be based on an oral



401768

1143 modification of either the written contract or written  
1144 directive. Nothing herein shall be construed to waive the  
1145 sovereign immunity of the state and its political subdivisions  
1146 from equitable claims and equitable remedies. Notwithstanding  
1147 anything to the contrary contained in this section, no employee  
1148 or agent of the department may be held personally liable to an  
1149 extent greater than that pursuant to s. 768.28 provided that no  
1150 suit sounding in tort shall be maintained against the  
1151 department.

1152 Section 23. For the purpose of incorporating the amendment  
1153 made by this act to section 768.28, Florida Statutes, in a  
1154 reference thereto, subsection (17) of section 341.302, Florida  
1155 Statutes, is reenacted to read:

1156 341.302 Rail program; duties and responsibilities of the  
1157 department.—The department, in conjunction with other  
1158 governmental entities, including the rail enterprise and the  
1159 private sector, shall develop and implement a rail program of  
1160 statewide application designed to ensure the proper maintenance,  
1161 safety, revitalization, and expansion of the rail system to  
1162 assure its continued and increased availability to respond to  
1163 statewide mobility needs. Within the resources provided pursuant  
1164 to chapter 216, and as authorized under federal law, the  
1165 department shall:

1166 (17) In conjunction with the acquisition, ownership,  
1167 construction, operation, maintenance, and management of a rail  
1168 corridor, have the authority to:

1169 (a) Assume obligations pursuant to the following:

1170 1.a. The department may assume the obligation by contract  
1171 to forever protect, defend, indemnify, and hold harmless the



401768

1172 freight rail operator, or its successors, from whom the  
1173 department has acquired a real property interest in the rail  
1174 corridor, and that freight rail operator's officers, agents, and  
1175 employees, from and against any liability, cost, and expense,  
1176 including, but not limited to, commuter rail passengers and rail  
1177 corridor invitees in the rail corridor, regardless of whether  
1178 the loss, damage, destruction, injury, or death giving rise to  
1179 any such liability, cost, or expense is caused in whole or in  
1180 part, and to whatever nature or degree, by the fault, failure,  
1181 negligence, misconduct, nonfeasance, or misfeasance of such  
1182 freight rail operator, its successors, or its officers, agents,  
1183 and employees, or any other person or persons whomsoever; or

1184       b. The department may assume the obligation by contract to  
1185 forever protect, defend, indemnify, and hold harmless National  
1186 Railroad Passenger Corporation, or its successors, and officers,  
1187 agents, and employees of National Railroad Passenger  
1188 Corporation, from and against any liability, cost, and expense,  
1189 including, but not limited to, commuter rail passengers and rail  
1190 corridor invitees in the rail corridor, regardless of whether  
1191 the loss, damage, destruction, injury, or death giving rise to  
1192 any such liability, cost, or expense is caused in whole or in  
1193 part, and to whatever nature or degree, by the fault, failure,  
1194 negligence, misconduct, nonfeasance, or misfeasance of National  
1195 Railroad Passenger Corporation, its successors, or its officers,  
1196 agents, and employees, or any other person or persons  
1197 whomsoever.

1198       2. The assumption of liability of the department by  
1199 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph  
1200 1.b. may not in any instance exceed the following parameters of



401768

1201 allocation of risk:

1202       a. The department may be solely responsible for any loss,  
1203 injury, or damage to commuter rail passengers, or rail corridor  
1204 invitees, or trespassers, regardless of circumstances or cause,  
1205 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and  
1206 6.

1207       b.(I) In the event of a limited covered accident, the  
1208 authority of the department to protect, defend, and indemnify  
1209 the freight operator for all liability, cost, and expense,  
1210 including punitive or exemplary damages, in excess of the  
1211 deductible or self-insurance retention fund established under  
1212 paragraph (b) and actually in force at the time of the limited  
1213 covered accident exists only if the freight operator agrees,  
1214 with respect to the limited covered accident, to protect,  
1215 defend, and indemnify the department for the amount of the  
1216 deductible or self-insurance retention fund established under  
1217 paragraph (b) and actually in force at the time of the limited  
1218 covered accident.

1219       (II) In the event of a limited covered accident, the  
1220 authority of the department to protect, defend, and indemnify  
1221 National Railroad Passenger Corporation for all liability, cost,  
1222 and expense, including punitive or exemplary damages, in excess  
1223 of the deductible or self-insurance retention fund established  
1224 under paragraph (b) and actually in force at the time of the  
1225 limited covered accident exists only if National Railroad  
1226 Passenger Corporation agrees, with respect to the limited  
1227 covered accident, to protect, defend, and indemnify the  
1228 department for the amount of the deductible or self-insurance  
1229 retention fund established under paragraph (b) and actually in



401768

1230 force at the time of the limited covered accident.

1231 3. When only one train is involved in an incident, the  
1232 department may be solely responsible for any loss, injury, or  
1233 damage if the train is a department train or other train  
1234 pursuant to subparagraph 4., but only if:

1235 a. When an incident occurs with only a freight train  
1236 involved, including incidents with trespassers or at grade  
1237 crossings, the freight rail operator is solely responsible for  
1238 any loss, injury, or damage, except for commuter rail passengers  
1239 and rail corridor invitees; or

1240 b. When an incident occurs with only a National Railroad  
1241 Passenger Corporation train involved, including incidents with  
1242 trespassers or at grade crossings, National Railroad Passenger  
1243 Corporation is solely responsible for any loss, injury, or  
1244 damage, except for commuter rail passengers and rail corridor  
1245 invitees.

1246 4. For the purposes of this subsection:

1247 a. Any train involved in an incident that is neither the  
1248 department's train nor the freight rail operator's train,  
1249 hereinafter referred to in this subsection as an "other train,"  
1250 may be treated as a department train, solely for purposes of any  
1251 allocation of liability between the department and the freight  
1252 rail operator only, but only if the department and the freight  
1253 rail operator share responsibility equally as to third parties  
1254 outside the rail corridor who incur loss, injury, or damage as a  
1255 result of any incident involving both a department train and a  
1256 freight rail operator train, and the allocation as between the  
1257 department and the freight rail operator, regardless of whether  
1258 the other train is treated as a department train, shall remain



1259 one-half each as to third parties outside the rail corridor who  
1260 incur loss, injury, or damage as a result of the incident. The  
1261 involvement of any other train shall not alter the sharing of  
1262 equal responsibility as to third parties outside the rail  
1263 corridor who incur loss, injury, or damage as a result of the  
1264 incident; or

1265       b. Any train involved in an incident that is neither the  
1266 department's train nor the National Railroad Passenger  
1267 Corporation's train, hereinafter referred to in this subsection  
1268 as an "other train," may be treated as a department train,  
1269 solely for purposes of any allocation of liability between the  
1270 department and National Railroad Passenger Corporation only, but  
1271 only if the department and National Railroad Passenger  
1272 Corporation share responsibility equally as to third parties  
1273 outside the rail corridor who incur loss, injury, or damage as a  
1274 result of any incident involving both a department train and a  
1275 National Railroad Passenger Corporation train, and the  
1276 allocation as between the department and National Railroad  
1277 Passenger Corporation, regardless of whether the other train is  
1278 treated as a department train, shall remain one-half each as to  
1279 third parties outside the rail corridor who incur loss, injury,  
1280 or damage as a result of the incident. The involvement of any  
1281 other train shall not alter the sharing of equal responsibility  
1282 as to third parties outside the rail corridor who incur loss,  
1283 injury, or damage as a result of the incident.

1284       5. When more than one train is involved in an incident:

1285       a.(I) If only a department train and freight rail  
1286 operator's train, or only an other train as described in sub-  
1287 subparagraph 4.a. and a freight rail operator's train, are



401768

1288 involved in an incident, the department may be responsible for  
1289 its property and all of its people, all commuter rail  
1290 passengers, and rail corridor invitees, but only if the freight  
1291 rail operator is responsible for its property and all of its  
1292 people, and the department and the freight rail operator each  
1293 share one-half responsibility as to trespassers or third parties  
1294 outside the rail corridor who incur loss, injury, or damage as a  
1295 result of the incident; or

1296 (II) If only a department train and a National Railroad  
1297 Passenger Corporation train, or only an other train as described  
1298 in sub-subparagraph 4.b. and a National Railroad Passenger  
1299 Corporation train, are involved in an incident, the department  
1300 may be responsible for its property and all of its people, all  
1301 commuter rail passengers, and rail corridor invitees, but only  
1302 if National Railroad Passenger Corporation is responsible for  
1303 its property and all of its people, all National Railroad  
1304 Passenger Corporation's rail passengers, and the department and  
1305 National Railroad Passenger Corporation each share one-half  
1306 responsibility as to trespassers or third parties outside the  
1307 rail corridor who incur loss, injury, or damage as a result of  
1308 the incident.

1309 b.(I) If a department train, a freight rail operator train,  
1310 and any other train are involved in an incident, the allocation  
1311 of liability between the department and the freight rail  
1312 operator, regardless of whether the other train is treated as a  
1313 department train, shall remain one-half each as to third parties  
1314 outside the rail corridor who incur loss, injury, or damage as a  
1315 result of the incident; the involvement of any other train shall  
1316 not alter the sharing of equal responsibility as to third



401768

1317 parties outside the rail corridor who incur loss, injury, or  
1318 damage as a result of the incident; and, if the owner, operator,  
1319 or insurer of the other train makes any payment to injured third  
1320 parties outside the rail corridor who incur loss, injury, or  
1321 damage as a result of the incident, the allocation of credit  
1322 between the department and the freight rail operator as to such  
1323 payment shall not in any case reduce the freight rail operator's  
1324 third-party-sharing allocation of one-half under this paragraph  
1325 to less than one-third of the total third party liability; or

1326 (II) If a department train, a National Railroad Passenger  
1327 Corporation train, and any other train are involved in an  
1328 incident, the allocation of liability between the department and  
1329 National Railroad Passenger Corporation, regardless of whether  
1330 the other train is treated as a department train, shall remain  
1331 one-half each as to third parties outside the rail corridor who  
1332 incur loss, injury, or damage as a result of the incident; the  
1333 involvement of any other train shall not alter the sharing of  
1334 equal responsibility as to third parties outside the rail  
1335 corridor who incur loss, injury, or damage as a result of the  
1336 incident; and, if the owner, operator, or insurer of the other  
1337 train makes any payment to injured third parties outside the  
1338 rail corridor who incur loss, injury, or damage as a result of  
1339 the incident, the allocation of credit between the department  
1340 and National Railroad Passenger Corporation as to such payment  
1341 shall not in any case reduce National Railroad Passenger  
1342 Corporation's third-party-sharing allocation of one-half under  
1343 this sub-subparagraph to less than one-third of the total third  
1344 party liability.

1345 6. Any such contractual duty to protect, defend, indemnify,



401768

1346 and hold harmless such a freight rail operator or National  
1347 Railroad Passenger Corporation shall expressly include a  
1348 specific cap on the amount of the contractual duty, which amount  
1349 shall not exceed \$200 million without prior legislative  
1350 approval, and the department to purchase liability insurance and  
1351 establish a self-insurance retention fund in the amount of the  
1352 specific cap established under this subparagraph, provided that:

1353       a. No such contractual duty shall in any case be effective  
1354 nor otherwise extend the department's liability in scope and  
1355 effect beyond the contractual liability insurance and self-  
1356 insurance retention fund required pursuant to this paragraph;  
1357 and

1358       b.(I) The freight rail operator's compensation to the  
1359 department for future use of the department's rail corridor  
1360 shall include a monetary contribution to the cost of such  
1361 liability coverage for the sole benefit of the freight rail  
1362 operator.

1363       (II) National Railroad Passenger Corporation's compensation  
1364 to the department for future use of the department's rail  
1365 corridor shall include a monetary contribution to the cost of  
1366 such liability coverage for the sole benefit of National  
1367 Railroad Passenger Corporation.

1368       (b) Purchase liability insurance, which amount shall not  
1369 exceed \$200 million, and establish a self-insurance retention  
1370 fund for the purpose of paying the deductible limit established  
1371 in the insurance policies it may obtain, including coverage for  
1372 the department, any freight rail operator as described in  
1373 paragraph (a), National Railroad Passenger Corporation, commuter  
1374 rail service providers, governmental entities, or any ancillary



401768

1375 development, which self-insurance retention fund or deductible  
1376 shall not exceed \$10 million. The insureds shall pay a  
1377 reasonable monetary contribution to the cost of such liability  
1378 coverage for the sole benefit of the insured. Such insurance and  
1379 self-insurance retention fund may provide coverage for all  
1380 damages, including, but not limited to, compensatory, special,  
1381 and exemplary, and be maintained to provide an adequate fund to  
1382 cover claims and liabilities for loss, injury, or damage arising  
1383 out of or connected with the ownership, operation, maintenance,  
1384 and management of a rail corridor.

1385 (c) Incur expenses for the purchase of advertisements,  
1386 marketing, and promotional items.

1387 (d) Without altering any of the rights granted to the  
1388 department under this section, agree to assume the obligations  
1389 to indemnify and insure, pursuant to s. 343.545, freight rail  
1390 service, intercity passenger rail service, and commuter rail  
1391 service on a department-owned rail corridor, whether ownership  
1392 is in fee or by easement, or on a rail corridor where the  
1393 department has the right to operate.

1394  
1395 Neither the assumption by contract to protect, defend,  
1396 indemnify, and hold harmless; the purchase of insurance; nor the  
1397 establishment of a self-insurance retention fund shall be deemed  
1398 to be a waiver of any defense of sovereign immunity for torts  
1399 nor deemed to increase the limits of the department's or the  
1400 governmental entity's liability for torts as provided in s.  
1401 768.28. The requirements of s. 287.022(1) shall not apply to the  
1402 purchase of any insurance under this subsection. The provisions  
1403 of this subsection shall apply and inure fully as to any other



401768

1404 governmental entity providing commuter rail service and  
1405 constructing, operating, maintaining, or managing a rail  
1406 corridor on publicly owned right-of-way under contract by the  
1407 governmental entity with the department or a governmental entity  
1408 designated by the department. Notwithstanding any law to the  
1409 contrary, procurement for the construction, operation,  
1410 maintenance, and management of any rail corridor described in  
1411 this subsection, whether by the department, a governmental  
1412 entity under contract with the department, or a governmental  
1413 entity designated by the department, shall be pursuant to s.  
1414 287.057 and shall include, but not be limited to, criteria for  
1415 the consideration of qualifications, technical aspects of the  
1416 proposal, and price. Further, any such contract for design-build  
1417 shall be procured pursuant to the criteria in s. 337.11(7).

1418 Section 24. For the purpose of incorporating the amendment  
1419 made by this act to section 768.28, Florida Statutes, in a  
1420 reference thereto, subsection (3) of section 343.811, Florida  
1421 Statutes, is reenacted to read:

1422 343.811 Power to assume indemnification and insurance  
1423 obligations.—

1424 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In  
1425 conjunction with the development or operation of a commuter rail  
1426 service on the Coastal Link corridor, an agency may:

1427 (a) Assume obligations pursuant to the following:

1428 1.a. The agency may assume the obligation by contract to  
1429 protect, defend, indemnify, and hold harmless FECR and its  
1430 officers, agents, and employees from and against:

1431 (I) Any liability, cost, and expense, including, but not  
1432 limited to, the agency's passengers and other rail corridor



401768

1433 invitees in, on, or about the Coastal Link corridor, regardless  
1434 of whether the loss, damage, destruction, injury, or death  
1435 giving rise to any such liability, cost, or expense is caused in  
1436 whole or in part, and to whatever nature or degree, by the  
1437 fault, failure, negligence, misconduct, nonfeasance, or  
1438 misfeasance of such freight rail operator, its successors, or  
1439 its officers, agents, and employees, or any other person or  
1440 persons whomsoever.

1441 (II) Any loss, injury, or damage incurred by other rail  
1442 corridor invitees up to the amount of the self-insurance  
1443 retention amount with respect to limited covered accidents  
1444 caused by the agency.

1445 b. The agency may assume the obligation by contract to  
1446 protect, defend, indemnify, and hold harmless Brightline and its  
1447 officers, agents, and employees from and against:

1448 (I) Any liability, cost, and expense, including, but not  
1449 limited to, the agency's passengers and rail corridor invitees  
1450 in the Coastal Link corridor, regardless of whether the loss,  
1451 damage, destruction, injury, or death giving rise to any such  
1452 liability, cost, or expense is caused in whole or in part, and  
1453 to whatever nature or degree, by the fault, failure, negligence,  
1454 misconduct, nonfeasance, or misfeasance of Brightline, its  
1455 successors, or its officers, agents, and employees, or any other  
1456 person or persons whomsoever.

1457 (II) Any loss, injury, or damage incurred by other rail  
1458 corridor invitees up to the amount of the self-insurance  
1459 retention amount with respect to limited covered accidents  
1460 caused by the agency.

1461 2. The assumption of liability of the agency by contract



401768

1462 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may  
1463 not in any instance exceed the following parameters of  
1464 allocation of risk:

1465       a. The agency may be solely responsible for any loss,  
1466 injury, or damage to the agency's passengers, or rail corridor  
1467 invitees, third parties, or trespassers, regardless of  
1468 circumstances or cause, subject to sub-subparagraph b. and  
1469 subparagraphs 3., 4., and 5.

1470       b.(I) In the event of a limited covered accident caused by  
1471 FECR, the authority of an agency to protect, defend, and  
1472 indemnify FECR for all liability, cost, and expense, including  
1473 punitive or exemplary damages, in excess of the self-insurance  
1474 retention amount exists only if FECR agrees, with respect to  
1475 such limited covered accident caused by FECR, to protect,  
1476 defend, and indemnify the agency for the amount of the self-  
1477 insurance retention amount.

1478       (II) In the event of a limited covered accident caused by  
1479 Brightline, the authority of an agency to protect, defend, and  
1480 indemnify Brightline for all liability, cost, and expense,  
1481 including punitive or exemplary damages, in excess of the self-  
1482 insurance retention amount exists only if Brightline agrees,  
1483 with respect to such limited covered accident, to protect,  
1484 defend, and indemnify the agency for the amount of the self-  
1485 insurance retention amount.

1486       3. When only one train is involved in an incident and:

1487       a. The train is an agency's train, including an incident  
1488 with trespassers or at-grade crossings, the agency may be solely  
1489 responsible for any loss, injury, or damage.

1490       b. The train is FECR's train, including an incident with



401768

1491 trespassers or at-grade crossings, FECR is solely responsible  
1492 for any loss, injury, or damage, except for the agency's  
1493 passengers and other rail corridor invitees, which are the  
1494 responsibility of the agency, and Brightline's passengers and  
1495 other rail corridor invitees, which are the responsibility of  
1496 Brightline.

1497       c. The train is Brightline's train, including an incident  
1498 with trespassers or at-grade crossings, Brightline is solely  
1499 responsible for any loss, injury, or damage, except for the  
1500 agency's passengers or rail corridor invitees, which are the  
1501 responsibility of the agency, and FECR's rail corridor invitees,  
1502 which are the responsibility of FECR.

1503       4. When an incident involves more than one operator, each  
1504 operator is responsible for:

1505           a. Its property; passengers; employees, excluding employees  
1506 who are, at the time of the incident, rail corridor invitees of  
1507 another operator; and other rail corridor invitees.

1508           b. Its proportionate share of any loss or damage to the  
1509 joint infrastructure.

1510           c. Its proportionate share of any loss, injury, or damage  
1511 to:

1512           (I) Rail corridor invitees who are not rail corridor  
1513 invitees of operators, provided that the agency shall always be  
1514 responsible for its passengers and its rail corridor invitees  
1515 regardless of whether the agency was involved in the incident.

1516           (II) Trespassers or third parties outside the Coastal Link  
1517 corridor as a result of the incident.

1518       5. Any such contractual duty to protect, defend, indemnify,  
1519 and hold harmless FECR or Brightline with respect to claims by



401768

1520 rail passengers shall expressly include a specific cap on the  
1521 amount of the contractual duty, which amount may not exceed \$323  
1522 million per occurrence and shall be adjusted so that the per-  
1523 occurrence insurance requirement is equal to the aggregate  
1524 allowable awards to all rail passengers, against all defendants,  
1525 for all claims, including claims for punitive damages, arising  
1526 from a single accident or incident in accordance with 49 U.S.C.  
1527 s. 28103, or any successor provision, without prior legislative  
1528 approval.

1529         6. Notwithstanding any provision of this section to the  
1530 contrary, the liabilities of the agency to the state or any  
1531 other agency shall be as set forth in an agreement among such  
1532 entities and limited by s. 768.28(19).

1533         (b) Purchase liability insurance, which amount may not  
1534 exceed \$323 million per occurrence, which amount shall be  
1535 adjusted so that the per-occurrence insurance requirement is  
1536 equal to the aggregate allowable awards to all rail passengers,  
1537 against all defendants, for all claims, including claims for  
1538 punitive damages, arising from a single accident or incident in  
1539 accordance with 49 U.S.C. s. 28103, or any successor provision,  
1540 and establish a self-insurance retention fund for the purpose of  
1541 paying the deductible limit established in the insurance  
1542 policies it may obtain, including coverage for a county agency,  
1543 any freight rail operator as described in paragraph (a),  
1544 Brightline, commuter rail service providers, governmental  
1545 entities, or any ancillary development, which self-insurance  
1546 retention fund or deductible shall not exceed the self-insurance  
1547 retention amount.

1548         1. Such insurance and self-insurance retention fund may



401768

1549 provide coverage for all damages, including, but not limited to,  
1550 compensatory, special, and exemplary, and be maintained to  
1551 provide an adequate fund to cover claims and liabilities for  
1552 loss, injury, or damage arising out of or connected with the  
1553 ownership, operation, maintenance, and management of the Coastal  
1554 Link corridor.

1555 2. Any self-insured retention account shall be a segregated  
1556 account of the agency and shall be subject to the same  
1557 conditions, restrictions, exclusions, obligations, and duties  
1558 included in any and all of the policies of liability insurance  
1559 purchased under this paragraph.

1560 3. Unless otherwise specifically provided by general law,  
1561 FECR and Brightline, and their respective officers, agents, and  
1562 employees, are not officers, agents, employees, or subdivisions  
1563 of the state and are not entitled to sovereign immunity.

1564  
1565 Neither the assumption by contract to protect, defend,  
1566 indemnify, and hold harmless; the purchase of insurance; nor the  
1567 establishment of a self-insurance retention fund shall be deemed  
1568 to be a waiver of any defense of sovereign immunity for tort  
1569 claims or deemed to increase the limits of the agency's  
1570 liability for tort claims as provided in s. 768.28.

1571 Section 25. For the purpose of incorporating the amendment  
1572 made by this act to section 768.28, Florida Statutes, in a  
1573 reference thereto, paragraph (c) of subsection (4) of section  
1574 351.03, Florida Statutes, is reenacted to read:

1575 351.03 Railroad-highway grade-crossing warning signs and  
1576 signals; audible warnings; exercise of reasonable care; blocking  
1577 highways, roads, and streets during darkness.—



401768

1578

(4)

1579

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

1580

1581

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

1582

1583

1584

1585

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

1586

1587

1588

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

1589

1590

1591

1592

1593

1594

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

1595

1596

1597

1598

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

1599

1600

1601

(3) (a) An owner of an area who enters into a written agreement concerning the area with a state agency for outdoor recreational purposes, where such agreement recognizes that the state agency is responsible for personal injury, loss, or damage resulting in whole or in part from the state agency's use of the area under the terms of the agreement subject to the limitations

1602

1603

1604

1605

1606



401768

1607 and conditions specified in s. 768.28, owes no duty of care to  
1608 keep the area safe for entry or use by others, or to give  
1609 warning to persons entering or going on the area of any  
1610 hazardous conditions, structures, or activities thereon. An  
1611 owner who enters into a written agreement concerning the area  
1612 with a state agency for outdoor recreational purposes:

1613 1. Is not presumed to extend any assurance that the area is  
1614 safe for any purpose;

1615 2. Does not incur any duty of care toward a person who goes  
1616 on the area that is subject to the agreement; or

1617 3. Is not liable or responsible for any injury to persons  
1618 or property caused by the act or omission of a person who goes  
1619 on the area that is subject to the agreement.

1620 Section 28. For the purpose of incorporating the amendment  
1621 made by this act to section 768.28, Florida Statutes, in a  
1622 reference thereto, subsection (9) of section 381.0056, Florida  
1623 Statutes, is reenacted to read:

1624 381.0056 School health services program.—

1625 (9) Any health care entity that provides school health  
1626 services under contract with the department pursuant to a school  
1627 health services plan developed under this section, and as part  
1628 of a school nurse services public-private partnership, is deemed  
1629 to be a corporation acting primarily as an instrumentality of  
1630 the state solely for the purpose of limiting liability pursuant  
1631 to s. 768.28(5). The limitations on tort actions contained in s.  
1632 768.28(5) shall apply to any action against the entity with  
1633 respect to the provision of school health services, if the  
1634 entity is acting within the scope of and pursuant to guidelines  
1635 established in the contract or by rule of the department. The



401768

1636 contract must require the entity, or the partnership on behalf  
1637 of the entity, to obtain general liability insurance coverage,  
1638 with any additional endorsement necessary to insure the entity  
1639 for liability assumed by its contract with the department. The  
1640 Legislature intends that insurance be purchased by entities, or  
1641 by partnerships on behalf of the entity, to cover all liability  
1642 claims, and under no circumstances shall the state or the  
1643 department be responsible for payment of any claims or defense  
1644 costs for claims brought against the entity or its subcontractor  
1645 for services performed under the contract with the department.  
1646 This subsection does not preclude consideration by the  
1647 Legislature for payment by the state of any claims bill  
1648 involving an entity contracting with the department pursuant to  
1649 this section.

1650 Section 29. For the purpose of incorporating the amendment  
1651 made by this act to section 768.28, Florida Statutes, in a  
1652 reference thereto, subsection (3) of section 393.075, Florida  
1653 Statutes, is reenacted to read:

1654 393.075 General liability coverage.—

1655 (3) This section shall not be construed as designating or  
1656 not designating that a person who owns or operates a foster care  
1657 facility or group home facility as described in this section or  
1658 any other person is an employee or agent of the state. Nothing  
1659 in this section amends, expands, or supersedes the provisions of  
1660 s. 768.28.

1661 Section 30. For the purpose of incorporating the amendment  
1662 made by this act to section 768.28, Florida Statutes, in a  
1663 reference thereto, subsection (7) of section 394.9085, Florida  
1664 Statutes, is reenacted to read:



401768

1665 394.9085 Behavioral provider liability.—

1666 (7) This section shall not be construed to waive sovereign  
1667 immunity for any governmental unit or other entity protected by  
1668 sovereign immunity. Section 768.28 shall continue to apply to  
1669 all governmental units and such entities.

1670 Section 31. For the purpose of incorporating the amendment  
1671 made by this act to section 768.28, Florida Statutes, in a  
1672 reference thereto, paragraph (g) of subsection (10) of section  
1673 395.1055, Florida Statutes, is reenacted to read:

1674 395.1055 Rules and enforcement.—

1675 (10) The agency shall establish a pediatric cardiac  
1676 technical advisory panel, pursuant to s. 20.052, to develop  
1677 procedures and standards for measuring outcomes of pediatric  
1678 cardiac catheterization programs and pediatric cardiovascular  
1679 surgery programs.

1680 (g) Panel members are agents of the state for purposes of  
1681 s. 768.28 throughout the good faith performance of the duties  
1682 assigned to them by the Secretary of Health Care Administration.

1683 Section 32. For the purpose of incorporating the amendment  
1684 made by this act to section 768.28, Florida Statutes, in a  
1685 reference thereto, paragraph (c) of subsection (17) of section  
1686 403.706, Florida Statutes, is reenacted to read:

1687 403.706 Local government solid waste responsibilities.—

1688 (17) To effect the purposes of this part, counties and  
1689 municipalities are authorized, in addition to other powers  
1690 granted pursuant to this part:

1691 (c) To waive sovereign immunity and immunity from suit in  
1692 federal court by vote of the governing body of the county or  
1693 municipality to the extent necessary to carry out the authority



401768

1694 granted in paragraphs (a) and (b), notwithstanding the  
1695 limitations prescribed in s. 768.28.

1696 Section 33. For the purpose of incorporating the amendment  
1697 made by this act to section 768.28, Florida Statutes, in a  
1698 reference thereto, paragraph (b) of subsection (15) of section  
1699 409.175, Florida Statutes, is reenacted to read:

1700 409.175 Licensure of family foster homes, residential  
1701 child-caring agencies, and child-placing agencies; public  
1702 records exemption.—

1703 (15)

1704 (b) This subsection may not be construed as designating or  
1705 not designating that a person who owns or operates a family  
1706 foster home as described in this subsection or any other person  
1707 is an employee or agent of the state. Nothing in this subsection  
1708 amends, expands, or supersedes the provisions of s. 768.28.

1709 Section 34. For the purpose of incorporating the amendment  
1710 made by this act to section 768.28, Florida Statutes, in  
1711 references thereto, subsection (1), paragraph (a) of subsection  
1712 (2), and paragraph (a) of subsection (3) of section 409.993,  
1713 Florida Statutes, are reenacted to read:

1714 409.993 Lead agencies and subcontractor liability.—

1715 (1) FINDINGS.—

1716 (a) The Legislature finds that the state has traditionally  
1717 provided foster care services to children who are the  
1718 responsibility of the state. As such, foster children have not  
1719 had the right to recover for injuries beyond the limitations  
1720 specified in s. 768.28. The Legislature has determined that  
1721 foster care and related services should be outsourced pursuant  
1722 to this section and that the provision of such services is of



401768

1723 paramount importance to the state. The purpose of such  
1724 outsourcing is to increase the level of safety, security, and  
1725 stability of children who are or become the responsibility of  
1726 the state. One of the components necessary to secure a safe and  
1727 stable environment for such children is the requirement that  
1728 private providers maintain liability insurance. As such,  
1729 insurance needs to be available and remain available to  
1730 nongovernmental foster care and related services providers  
1731 without the resources of such providers being significantly  
1732 reduced by the cost of maintaining such insurance.

1733 (b) The Legislature further finds that, by requiring the  
1734 following minimum levels of insurance, children in outsourced  
1735 foster care and related services will gain increased protection  
1736 and rights of recovery in the event of injury than currently  
1737 provided in s. 768.28.

1738 (2) LEAD AGENCY LIABILITY.—

1739 (a) Other than an entity to which s. 768.28 applies, an  
1740 eligible community-based care lead agency, or its employees or  
1741 officers, except as otherwise provided in paragraph (b), shall,  
1742 as a part of its contract, obtain a minimum of \$1 million per  
1743 occurrence with a policy period aggregate limit of \$3 million in  
1744 general liability insurance coverage. The lead agency must also  
1745 require that staff who transport client children and families in  
1746 their personal automobiles in order to carry out their job  
1747 responsibilities obtain minimum bodily injury liability  
1748 insurance in the amount of \$100,000 per person per any one  
1749 automobile accident, and subject to such limits for each person,  
1750 \$300,000 for all damages resulting from any one automobile  
1751 accident, on their personal automobiles. In lieu of personal



401768

1752 motor vehicle insurance, the lead agency's casualty, liability,  
1753 or motor vehicle insurance carrier may provide nonowned  
1754 automobile liability coverage. This insurance provides liability  
1755 insurance for an automobile that the lead agency uses in  
1756 connection with the lead agency's business but does not own,  
1757 lease, rent, or borrow. This coverage includes an automobile  
1758 owned by an employee of the lead agency or a member of the  
1759 employee's household but only while the automobile is used in  
1760 connection with the lead agency's business. The nonowned  
1761 automobile coverage for the lead agency applies as excess  
1762 coverage over any other collectible insurance. The personal  
1763 automobile policy for the employee of the lead agency shall be  
1764 primary insurance, and the nonowned automobile coverage of the  
1765 lead agency acts as excess insurance to the primary insurance.  
1766 The lead agency shall provide a minimum limit of \$1 million in  
1767 nonowned automobile coverage. In a tort action brought against  
1768 such a lead agency or employee, net economic damages shall be  
1769 limited to \$2 million per liability claim and \$200,000 per  
1770 automobile claim, including, but not limited to, past and future  
1771 medical expenses, wage loss, and loss of earning capacity,  
1772 offset by any collateral source payment paid or payable. In any  
1773 tort action brought against a lead agency, noneconomic damages  
1774 shall be limited to \$400,000 per claim. A claims bill may be  
1775 brought on behalf of a claimant pursuant to s. 768.28 for any  
1776 amount exceeding the limits specified in this paragraph. Any  
1777 offset of collateral source payments made as of the date of the  
1778 settlement or judgment shall be in accordance with s. 768.76.  
1779 The lead agency is not liable in tort for the acts or omissions  
1780 of its subcontractors or the officers, agents, or employees of



401768

1781 its subcontractors.

1782 (3) SUBCONTRACTOR LIABILITY.—

1783 (a) A subcontractor of an eligible community-based care  
1784 lead agency that is a direct provider of foster care and related  
1785 services to children and families, and its employees or  
1786 officers, except as otherwise provided in paragraph (c), must,  
1787 as a part of its contract, obtain a minimum of \$1 million per  
1788 occurrence with a policy period aggregate limit of \$3 million in  
1789 general liability insurance coverage. The subcontractor of a  
1790 lead agency must also require that staff who transport client  
1791 children and families in their personal automobiles in order to  
1792 carry out their job responsibilities obtain minimum bodily  
1793 injury liability insurance in the amount of \$100,000 per person  
1794 in any one automobile accident, and subject to such limits for  
1795 each person, \$300,000 for all damages resulting from any one  
1796 automobile accident, on their personal automobiles. In lieu of  
1797 personal motor vehicle insurance, the subcontractor's casualty,  
1798 liability, or motor vehicle insurance carrier may provide  
1799 nonowned automobile liability coverage. This insurance provides  
1800 liability insurance for automobiles that the subcontractor uses  
1801 in connection with the subcontractor's business but does not  
1802 own, lease, rent, or borrow. This coverage includes automobiles  
1803 owned by the employees of the subcontractor or a member of the  
1804 employee's household but only while the automobiles are used in  
1805 connection with the subcontractor's business. The nonowned  
1806 automobile coverage for the subcontractor applies as excess  
1807 coverage over any other collectible insurance. The personal  
1808 automobile policy for the employee of the subcontractor shall be  
1809 primary insurance, and the nonowned automobile coverage of the



401768

1810 subcontractor acts as excess insurance to the primary insurance.  
1811 The subcontractor shall provide a minimum limit of \$1 million in  
1812 nonowned automobile coverage. In a tort action brought against  
1813 such subcontractor or employee, net economic damages shall be  
1814 limited to \$2 million per liability claim and \$200,000 per  
1815 automobile claim, including, but not limited to, past and future  
1816 medical expenses, wage loss, and loss of earning capacity,  
1817 offset by any collateral source payment paid or payable. In a  
1818 tort action brought against such subcontractor, noneconomic  
1819 damages shall be limited to \$400,000 per claim. A claims bill  
1820 may be brought on behalf of a claimant pursuant to s. 768.28 for  
1821 any amount exceeding the limits specified in this paragraph. Any  
1822 offset of collateral source payments made as of the date of the  
1823 settlement or judgment shall be in accordance with s. 768.76.

1824 Section 35. For the purpose of incorporating the amendment  
1825 made by this act to section 768.28, Florida Statutes, in a  
1826 reference thereto, subsection (8) of section 420.504, Florida  
1827 Statutes, is reenacted to read:

1828 420.504 Public corporation; creation, membership, terms,  
1829 expenses.—

1830 (8) The corporation is a corporation primarily acting as an  
1831 instrumentality of the state, within the meaning of s. 768.28.

1832 Section 36. For the purpose of incorporating the amendment  
1833 made by this act to section 768.28, Florida Statutes, in a  
1834 reference thereto, subsection (3) of section 455.221, Florida  
1835 Statutes, is reenacted to read:

1836 455.221 Legal and investigative services.—

1837 (3) Any person retained by the department under contract to  
1838 review materials, make site visits, or provide expert testimony



401768

1839 regarding any complaint or application filed with the department  
1840 relating to a profession under the jurisdiction of the  
1841 department shall be considered an agent of the department in  
1842 determining the state insurance coverage and sovereign immunity  
1843 protection applicability of ss. 284.31 and 768.28.

1844 Section 37. For the purpose of incorporating the amendment  
1845 made by this act to section 768.28, Florida Statutes, in a  
1846 reference thereto, subsection (5) of section 455.32, Florida  
1847 Statutes, is reenacted to read:

1848 455.32 Management Privatization Act.—

1849 (5) Any such corporation may hire staff as necessary to  
1850 carry out its functions. Such staff are not public employees for  
1851 the purposes of chapter 110 or chapter 112, except that the  
1852 board of directors and the employees of the corporation are  
1853 subject to the provisions of s. 112.061 and part III of chapter  
1854 112. The provisions of s. 768.28 apply to each such corporation,  
1855 which is deemed to be a corporation primarily acting as an  
1856 instrumentality of the state but which is not an agency within  
1857 the meaning of s. 20.03(1).

1858 Section 38. For the purpose of incorporating the amendment  
1859 made by this act to section 768.28, Florida Statutes, in a  
1860 reference thereto, subsection (3) of section 456.009, Florida  
1861 Statutes, is reenacted to read:

1862 456.009 Legal and investigative services.—

1863 (3) Any person retained by the department under contract to  
1864 review materials, make site visits, or provide expert testimony  
1865 regarding any complaint or application filed with the department  
1866 relating to a profession under the jurisdiction of the  
1867 department shall be considered an agent of the department in



401768

1868 determining the state insurance coverage and sovereign immunity  
1869 protection applicability of ss. 284.31 and 768.28.

1870 Section 39. For the purpose of incorporating the amendment  
1871 made by this act to section 768.28, Florida Statutes, in a  
1872 reference thereto, paragraph (a) of subsection (15) of section  
1873 456.076, Florida Statutes, is reenacted to read:

1874 456.076 Impaired practitioner programs.—

1875 (15) (a) A consultant retained pursuant to this section and  
1876 a consultant's directors, officers, employees, or agents shall  
1877 be considered agents of the department for purposes of s. 768.28  
1878 while acting within the scope of the consultant's duties under  
1879 the contract with the department.

1880 Section 40. For the purpose of incorporating the amendment  
1881 made by this act to section 768.28, Florida Statutes, in a  
1882 reference thereto, subsection (3) of section 471.038, Florida  
1883 Statutes, is reenacted to read:

1884 471.038 Florida Engineers Management Corporation.—

1885 (3) The Florida Engineers Management Corporation is created  
1886 to provide administrative, investigative, and prosecutorial  
1887 services to the board in accordance with the provisions of  
1888 chapter 455 and this chapter. The management corporation may  
1889 hire staff as necessary to carry out its functions. Such staff  
1890 are not public employees for the purposes of chapter 110 or  
1891 chapter 112, except that the board of directors and the staff  
1892 are subject to the provisions of s. 112.061. The provisions of  
1893 s. 768.28 apply to the management corporation, which is deemed  
1894 to be a corporation primarily acting as an instrumentality of  
1895 the state, but which is not an agency within the meaning of s.  
1896 20.03(1). The management corporation shall:



401768

1897           (a) Be a Florida corporation not for profit, incorporated  
1898 under the provisions of chapter 617.

1899           (b) Provide administrative, investigative, and  
1900 prosecutorial services to the board in accordance with the  
1901 provisions of chapter 455, this chapter, and the contract  
1902 required by this section.

1903           (c) Receive, hold, and administer property and make only  
1904 prudent expenditures directly related to the responsibilities of  
1905 the board, and in accordance with the contract required by this  
1906 section.

1907           (d) Be approved by the board, and the department, to  
1908 operate for the benefit of the board and in the best interest of  
1909 the state.

1910           (e) Operate under a fiscal year that begins on July 1 of  
1911 each year and ends on June 30 of the following year.

1912           (f) Have a seven-member board of directors, five of whom  
1913 are to be appointed by the board and must be registrants  
1914 regulated by the board and two of whom are to be appointed by  
1915 the secretary and must be laypersons not regulated by the board.  
1916 All appointments shall be for 4-year terms. No member shall  
1917 serve more than two consecutive terms. Failure to attend three  
1918 consecutive meetings shall be deemed a resignation from the  
1919 board, and the vacancy shall be filled by a new appointment.

1920           (g) Select its officers in accordance with its bylaws. The  
1921 members of the board of directors who were appointed by the  
1922 board may be removed by the board.

1923           (h) Select the president of the management corporation, who  
1924 shall also serve as executive director to the board, subject to  
1925 approval of the board.



401768

1926           (i) Use a portion of the interest derived from the  
1927 management corporation account to offset the costs associated  
1928 with the use of credit cards for payment of fees by applicants  
1929 or licensees.

1930           (j) Operate under a written contract with the department  
1931 which is approved by the board. The contract must provide for,  
1932 but is not limited to:

1933           1. Submission by the management corporation of an annual  
1934 budget that complies with board rules for approval by the board  
1935 and the department.

1936           2. Annual certification by the board and the department  
1937 that the management corporation is complying with the terms of  
1938 the contract in a manner consistent with the goals and purposes  
1939 of the board and in the best interest of the state. This  
1940 certification must be reported in the board's minutes. The  
1941 contract must also provide for methods and mechanisms to resolve  
1942 any situation in which the certification process determines  
1943 noncompliance.

1944           3. Funding of the management corporation through  
1945 appropriations allocated to the regulation of professional  
1946 engineers from the Professional Regulation Trust Fund.

1947           4. The reversion to the board, or the state if the board  
1948 ceases to exist, of moneys, records, data, and property held in  
1949 trust by the management corporation for the benefit of the  
1950 board, if the management corporation is no longer approved to  
1951 operate for the board or the board ceases to exist. All records  
1952 and data in a computerized database shall be returned to the  
1953 department in a form that is compatible with the computerized  
1954 database of the department.



401768

1955           5. The securing and maintaining by the management  
1956 corporation, during the term of the contract and for all acts  
1957 performed during the term of the contract, of all liability  
1958 insurance coverages in an amount to be approved by the board to  
1959 defend, indemnify, and hold harmless the management corporation  
1960 and its officers and employees, the department and its  
1961 employees, and the state against all claims arising from state  
1962 and federal laws. Such insurance coverage must be with insurers  
1963 qualified and doing business in the state. The management  
1964 corporation must provide proof of insurance to the department.  
1965 The department and its employees and the state are exempt from  
1966 and are not liable for any sum of money which represents a  
1967 deductible, which sums shall be the sole responsibility of the  
1968 management corporation. Violation of this subparagraph shall be  
1969 grounds for terminating the contract.

1970           6. Payment by the management corporation, out of its  
1971 allocated budget, to the department of all costs of  
1972 representation by the board counsel, including salary and  
1973 benefits, travel, and any other compensation traditionally paid  
1974 by the department to other board counsel.

1975           7. Payment by the management corporation, out of its  
1976 allocated budget, to the department of all costs incurred by the  
1977 management corporation or the board for the Division of  
1978 Administrative Hearings of the Department of Management Services  
1979 and any other cost for utilization of these state services.

1980           8. Payment by the management corporation, out of its  
1981 allocated budget, to the department of reasonable costs  
1982 associated with the contract monitor.

1983           (k) Provide for an annual financial audit of its financial



401768

1984 accounts and records by an independent certified public  
1985 accountant. The annual audit report shall include a management  
1986 letter in accordance with s. 11.45 and a detailed supplemental  
1987 schedule of expenditures for each expenditure category. The  
1988 annual audit report must be submitted to the board, the  
1989 department, and the Auditor General for review.

1990 (l) Provide for persons not employed by the corporation who  
1991 are charged with the responsibility of receiving and depositing  
1992 fee and fine revenues to have a faithful performance bond in  
1993 such an amount and according to such terms as shall be  
1994 determined in the contract.

1995 (m) Submit to the secretary, the board, and the  
1996 Legislature, on or before October 1 of each year, a report on  
1997 the status of the corporation which includes, but is not limited  
1998 to, information concerning the programs and funds that have been  
1999 transferred to the corporation. The report must include: the  
2000 number of license applications received; the number approved and  
2001 denied and the number of licenses issued; the number of  
2002 examinations administered and the number of applicants who  
2003 passed or failed the examination; the number of complaints  
2004 received; the number determined to be legally sufficient; the  
2005 number dismissed; the number determined to have probable cause;  
2006 the number of administrative complaints issued and the status of  
2007 the complaints; and the number and nature of disciplinary  
2008 actions taken by the board.

2009 (n) Develop and submit to the department, performance  
2010 standards and measurable outcomes for the board to adopt by rule  
2011 in order to facilitate efficient and cost-effective regulation.

2012 Section 41. For the purpose of incorporating the amendment



401768

2013 made by this act to section 768.28, Florida Statutes, in a  
2014 reference thereto, paragraph (b) of subsection (11) of section  
2015 472.006, Florida Statutes, is reenacted to read:

2016 472.006 Department; powers and duties.—The department  
2017 shall:

2018 (11) Provide legal counsel for the board by contracting  
2019 with the Department of Legal Affairs, by retaining private  
2020 counsel pursuant to s. 287.059, or by providing department staff  
2021 counsel. The board shall periodically review and evaluate the  
2022 services provided by its board counsel. Fees and costs of such  
2023 counsel shall be paid from the General Inspection Trust Fund,  
2024 subject to ss. 215.37 and 472.011. All contracts for independent  
2025 legal counsel must provide for periodic review and evaluation by  
2026 the board and the department of services provided.

2027 (b) Any person retained by the department under contract to  
2028 review materials, make site visits, or provide expert testimony  
2029 regarding any complaint or application filed with the department  
2030 relating to the practice of surveying and mapping shall be  
2031 considered an agent of the department in determining the state  
2032 insurance coverage and sovereign immunity protection  
2033 applicability of ss. 284.31 and 768.28.

2034 Section 42. For the purpose of incorporating the amendment  
2035 made by this act to section 768.28, Florida Statutes, in a  
2036 reference thereto, subsection (7) of section 497.167, Florida  
2037 Statutes, is reenacted to read:

2038 497.167 Administrative matters.—

2039 (7) Any person retained by the department under contract to  
2040 review materials, make site visits, or provide expert testimony  
2041 regarding any complaint or application filed with the



401768

2042 department, relating to regulation under this chapter, shall be  
2043 considered an agent of the department in determining the state  
2044 insurance coverage and sovereign immunity protection  
2045 applicability of ss. 284.31 and 768.28.

2046 Section 43. For the purpose of incorporating the amendment  
2047 made by this act to section 768.28, Florida Statutes, in a  
2048 reference thereto, subsection (2) of section 513.118, Florida  
2049 Statutes, is reenacted to read:

2050 513.118 Conduct on premises; refusal of service.—

2051 (2) The operator of a recreational vehicle park may request  
2052 that a transient guest or visitor who violates subsection (1)  
2053 leave the premises immediately. A person who refuses to leave  
2054 the premises commits the offense of trespass as provided in s.  
2055 810.08, and the operator may call a law enforcement officer to  
2056 have the person and his or her property removed under the  
2057 supervision of the officer. A law enforcement officer is not  
2058 liable for any claim involving the removal of the person or  
2059 property from the recreational vehicle park under this section,  
2060 except as provided in s. 768.28. If conditions do not allow for  
2061 immediate removal of the person's property, he or she may  
2062 arrange a reasonable time, not to exceed 48 hours, with the  
2063 operator to come remove the property, accompanied by a law  
2064 enforcement officer.

2065 Section 44. For the purpose of incorporating the amendment  
2066 made by this act to section 768.28, Florida Statutes, in a  
2067 reference thereto, subsection (1) of section 548.046, Florida  
2068 Statutes, is reenacted to read:

2069 548.046 Physician's attendance at match; examinations;  
2070 cancellation of match.—



401768

2071           (1) The commission, or the commission representative, shall  
2072 assign to each match at least one physician who shall observe  
2073 the physical condition of the participants and advise the  
2074 commissioner or commission representative in charge and the  
2075 referee of the participants' conditions before, during, and  
2076 after the match. The commission shall establish a schedule of  
2077 fees for the physician's services. The physician's fee shall be  
2078 paid by the promoter of the match attended by the physician. The  
2079 physician shall be considered an agent of the commission in  
2080 determining the state insurance coverage and sovereign immunity  
2081 protection applicability of ss. 284.31 and 768.28.

2082           Section 45. For the purpose of incorporating the amendment  
2083 made by this act to section 768.28, Florida Statutes, in a  
2084 reference thereto, subsection (8) of section 556.106, Florida  
2085 Statutes, is reenacted to read:

2086           556.106 Liability of the member operator, excavator, and  
2087 system.—

2088           (8) Any liability of the state, its agencies, or its  
2089 subdivisions which arises out of this chapter is subject to the  
2090 provisions of s. 768.28.

2091           Section 46. For the purpose of incorporating the amendment  
2092 made by this act to section 768.28, Florida Statutes, in a  
2093 reference thereto, paragraph (e) of subsection (4) of section  
2094 589.19, Florida Statutes, is reenacted to read:

2095           589.19 Creation of certain state forests; naming of certain  
2096 state forests; Operation Outdoor Freedom Program.—

2097           (4)

2098           (e)1. A private landowner who provides land for designation  
2099 and use as an Operation Outdoor Freedom Program hunting site



401768

2100 shall have limited liability pursuant to s. 375.251.

2101         2. A private landowner who consents to the designation and  
2102 use of land as part of the Operation Outdoor Freedom Program  
2103 without compensation shall be considered a volunteer, as defined  
2104 in s. 110.501, and shall be covered by state liability  
2105 protection pursuant to s. 768.28, including s. 768.28(9).

2106         3. This subsection does not:

2107             a. Relieve any person of liability that would otherwise  
2108 exist for deliberate, willful, or malicious injury to persons or  
2109 property.

2110             b. Create or increase the liability of any person.

2111         Section 47. For the purpose of incorporating the amendment  
2112 made by this act to section 768.28, Florida Statutes, in  
2113 references thereto, subsections (3) and (4) of section 627.7491,  
2114 Florida Statutes, are reenacted to read:

2115             627.7491 Official law enforcement vehicles; motor vehicle  
2116 insurance requirements.—

2117             (3) Any suit or action brought or maintained against an  
2118 employing agency for damages arising out of tort pursuant to  
2119 this section, including, without limitation, any claim arising  
2120 upon account of an act causing loss of property, personal  
2121 injury, or death, shall be subject to the limitations provided  
2122 in s. 768.28(5).

2123             (4) The requirements of this section may be met by any  
2124 method authorized by s. 768.28(16).

2125         Section 48. For the purpose of incorporating the amendment  
2126 made by this act to section 768.28, Florida Statutes, in a  
2127 reference thereto, paragraph (c) of subsection (2) of section  
2128 723.0611, Florida Statutes, is reenacted to read:



401768

2129           723.0611 Florida Mobile Home Relocation Corporation.—

2130           (2)

2131           (c) The corporation shall, for purposes of s. 768.28, be  
2132 considered an agency of the state. Agents or employees of the  
2133 corporation, members of the board of directors of the  
2134 corporation, or representatives of the Division of Florida  
2135 Condominiums, Timeshares, and Mobile Homes shall be considered  
2136 officers, employees, or agents of the state, and actions against  
2137 them and the corporation shall be governed by s. 768.28.

2138           Section 49. For the purpose of incorporating the amendment  
2139 made by this act to section 768.28, Florida Statutes, in a  
2140 reference thereto, subsection (5) of section 760.11, Florida  
2141 Statutes, is reenacted to read:

2142           760.11 Administrative and civil remedies; construction.—

2143           (5) In any civil action brought under this section, the  
2144 court may issue an order prohibiting the discriminatory practice  
2145 and providing affirmative relief from the effects of the  
2146 practice, including back pay. The court may also award  
2147 compensatory damages, including, but not limited to, damages for  
2148 mental anguish, loss of dignity, and any other intangible  
2149 injuries, and punitive damages. The provisions of ss. 768.72 and  
2150 768.73 do not apply to this section. The judgment for the total  
2151 amount of punitive damages awarded under this section to an  
2152 aggrieved person shall not exceed \$100,000. In any action or  
2153 proceeding under this subsection, the court, in its discretion,  
2154 may allow the prevailing party a reasonable attorney's fee as  
2155 part of the costs. It is the intent of the Legislature that this  
2156 provision for attorney's fees be interpreted in a manner  
2157 consistent with federal case law involving a Title VII action.



401768

2158 The right to trial by jury is preserved in any such private  
2159 right of action in which the aggrieved person is seeking  
2160 compensatory or punitive damages, and any party may demand a  
2161 trial by jury. The commission's determination of reasonable  
2162 cause is not admissible into evidence in any civil proceeding,  
2163 including any hearing or trial, except to establish for the  
2164 court the right to maintain the private right of action. A civil  
2165 action brought under this section shall be commenced no later  
2166 than 1 year after the date of determination of reasonable cause  
2167 by the commission. The commencement of such action shall divest  
2168 the commission of jurisdiction of the complaint, except that the  
2169 commission may intervene in the civil action as a matter of  
2170 right. Notwithstanding the above, the state and its agencies and  
2171 subdivisions shall not be liable for punitive damages. The total  
2172 amount of recovery against the state and its agencies and  
2173 subdivisions shall not exceed the limitation as set forth in s.  
2174 768.28(5).

2175 Section 50. For the purpose of incorporating the amendment  
2176 made by this act to section 768.28, Florida Statutes, in a  
2177 reference thereto, subsection (4) of section 766.1115, Florida  
2178 Statutes, is reenacted to read:

2179 766.1115 Health care providers; creation of agency  
2180 relationship with governmental contractors.-

2181 (4) CONTRACT REQUIREMENTS.-A health care provider that  
2182 executes a contract with a governmental contractor to deliver  
2183 health care services on or after April 17, 1992, as an agent of  
2184 the governmental contractor is an agent for purposes of s.  
2185 768.28(9), while acting within the scope of duties under the  
2186 contract, if the contract complies with the requirements of this



401768

2187 section and regardless of whether the individual treated is  
2188 later found to be ineligible. A health care provider shall  
2189 continue to be an agent for purposes of s. 768.28(9) for 30 days  
2190 after a determination of ineligibility to allow for treatment  
2191 until the individual transitions to treatment by another health  
2192 care provider. A health care provider under contract with the  
2193 state may not be named as a defendant in any action arising out  
2194 of medical care or treatment provided on or after April 17,  
2195 1992, under contracts entered into under this section. The  
2196 contract must provide that:

2197 (a) The right of dismissal or termination of any health  
2198 care provider delivering services under the contract is retained  
2199 by the governmental contractor.

2200 (b) The governmental contractor has access to the patient  
2201 records of any health care provider delivering services under  
2202 the contract.

2203 (c) Adverse incidents and information on treatment outcomes  
2204 must be reported by any health care provider to the governmental  
2205 contractor if the incidents and information pertain to a patient  
2206 treated under the contract. The health care provider shall  
2207 submit the reports required by s. 395.0197. If an incident  
2208 involves a professional licensed by the Department of Health or  
2209 a facility licensed by the Agency for Health Care  
2210 Administration, the governmental contractor shall submit such  
2211 incident reports to the appropriate department or agency, which  
2212 shall review each incident and determine whether it involves  
2213 conduct by the licensee that is subject to disciplinary action.  
2214 All patient medical records and any identifying information  
2215 contained in adverse incident reports and treatment outcomes



401768

2216 which are obtained by governmental entities under this paragraph  
2217 are confidential and exempt from the provisions of s. 119.07(1)  
2218 and s. 24(a), Art. I of the State Constitution.

2219 (d) Patient selection and initial referral must be made by  
2220 the governmental contractor or the provider. Patients may not be  
2221 transferred to the provider based on a violation of the  
2222 antidumping provisions of the Omnibus Budget Reconciliation Act  
2223 of 1989, the Omnibus Budget Reconciliation Act of 1990, or  
2224 chapter 395.

2225 (e) If emergency care is required, the patient need not be  
2226 referred before receiving treatment, but must be referred within  
2227 48 hours after treatment is commenced or within 48 hours after  
2228 the patient has the mental capacity to consent to treatment,  
2229 whichever occurs later.

2230 (f) The provider is subject to supervision and regular  
2231 inspection by the governmental contractor.

2232 (g) As an agent of the governmental contractor for purposes  
2233 of s. 768.28(9), while acting within the scope of duties under  
2234 the contract, a health care provider licensed under chapter 466  
2235 may allow a patient, or a parent or guardian of the patient, to  
2236 voluntarily contribute a monetary amount to cover costs of  
2237 dental laboratory work related to the services provided to the  
2238 patient. This contribution may not exceed the actual cost of the  
2239 dental laboratory charges.

2240  
2241 A governmental contractor that is also a health care provider is  
2242 not required to enter into a contract under this section with  
2243 respect to the health care services delivered by its employees.

2244 Section 51. For the purpose of incorporating the amendment



401768

2245 made by this act to section 768.28, Florida Statutes, in a  
2246 reference thereto, subsection (2) of section 766.112, Florida  
2247 Statutes, is reenacted to read:

2248 766.112 Comparative fault.—

2249 (2) In an action for damages for personal injury or  
2250 wrongful death arising out of medical negligence, whether in  
2251 contract or tort, when an apportionment of damages pursuant to  
2252 s. 768.81 is attributed to a board of trustees of a state  
2253 university, the court shall enter judgment against the board of  
2254 trustees on the basis of the board's percentage of fault and not  
2255 on the basis of the doctrine of joint and several liability. The  
2256 sole remedy available to a claimant to collect a judgment or  
2257 settlement against a board of trustees, subject to the  
2258 provisions of this subsection, shall be pursuant to s. 768.28.

2259 Section 52. For the purpose of incorporating the amendment  
2260 made by this act to section 768.28, Florida Statutes, in a  
2261 reference thereto, subsection (3) of section 768.1355, Florida  
2262 Statutes, is reenacted to read:

2263 768.1355 Florida Volunteer Protection Act.—

2264 (3) Members of elected or appointed boards, councils, and  
2265 commissions of the state, counties, municipalities, authorities,  
2266 and special districts shall incur no civil liability and shall  
2267 have immunity from suit as provided in s. 768.28 for acts or  
2268 omissions by members relating to members' conduct of their  
2269 official duties. It is the intent of the Legislature to  
2270 encourage our best and brightest people to serve on elected and  
2271 appointed boards, councils, and commissions.

2272 Section 53. For the purpose of incorporating the amendment  
2273 made by this act to section 768.28, Florida Statutes, in a



401768

2274 reference thereto, subsection (7) of section 768.1382, Florida  
2275 Statutes, is reenacted to read:

2276       768.1382 Streetlights, security lights, and other similar  
2277 illumination; limitation on liability.-

2278       (7) In the event that there is any conflict between this  
2279 section and s. 768.81, or any other section of the Florida  
2280 Statutes, this section shall control. Further, nothing in this  
2281 section shall impact or waive any provision of s. 768.28.

2282       Section 54. For the purpose of incorporating the amendment  
2283 made by this act to section 768.28, Florida Statutes, in a  
2284 reference thereto, subsection (4) of section 768.295, Florida  
2285 Statutes, is reenacted to read:

2286       768.295 Strategic Lawsuits Against Public Participation  
2287 (SLAPP) prohibited.-

2288       (4) A person or entity sued by a governmental entity or  
2289 another person in violation of this section has a right to an  
2290 expeditious resolution of a claim that the suit is in violation  
2291 of this section. A person or entity may move the court for an  
2292 order dismissing the action or granting final judgment in favor  
2293 of that person or entity. The person or entity may file a motion  
2294 for summary judgment, together with supplemental affidavits,  
2295 seeking a determination that the claimant's or governmental  
2296 entity's lawsuit has been brought in violation of this section.  
2297 The claimant or governmental entity shall thereafter file a  
2298 response and any supplemental affidavits. As soon as  
2299 practicable, the court shall set a hearing on the motion, which  
2300 shall be held at the earliest possible time after the filing of  
2301 the claimant's or governmental entity's response. The court may  
2302 award, subject to the limitations in s. 768.28, the party sued



401768

2303 by a governmental entity actual damages arising from a  
2304 governmental entity's violation of this section. The court shall  
2305 award the prevailing party reasonable attorney fees and costs  
2306 incurred in connection with a claim that an action was filed in  
2307 violation of this section.

2308 Section 55. For the purpose of incorporating the amendment  
2309 made by this act to section 768.28, Florida Statutes, in a  
2310 reference thereto, section 946.5026, Florida Statutes, is  
2311 reenacted to read:

2312 946.5026 Sovereign immunity in tort actions.—The provisions  
2313 of s. 768.28 shall be applicable to the corporation established  
2314 under this part, which is deemed to be a corporation primarily  
2315 acting as an instrumentality of the state.

2316 Section 56. For the purpose of incorporating the amendment  
2317 made by this act to section 768.28, Florida Statutes, in a  
2318 reference thereto, subsection (3) of section 946.514, Florida  
2319 Statutes, is reenacted to read:

2320 946.514 Civil rights of inmates; inmates not state  
2321 employees; liability of corporation for inmate injuries.—

2322 (3) The corporation is liable for inmate injury to the  
2323 extent specified in s. 768.28; however, the members of the board  
2324 of directors are not individually liable to any inmate for any  
2325 injury sustained in any correctional work program operated by  
2326 the corporation.

2327 Section 57. For the purpose of incorporating the amendment  
2328 made by this act to section 768.28, Florida Statutes, in a  
2329 reference thereto, subsection (8) of section 961.06, Florida  
2330 Statutes, is reenacted to read:

2331 961.06 Compensation for wrongful incarceration.—



401768

2332           (8) Any payment made under this act does not constitute a  
2333 waiver of any defense of sovereign immunity or an increase in  
2334 the limits of liability on behalf of the state or any person  
2335 subject to s. 768.28 or any other law.

2336           Section 58. For the purpose of incorporating the amendment  
2337 made by this act to section 768.28, Florida Statutes, in a  
2338 reference thereto, subsection (3) of section 984.09, Florida  
2339 Statutes, is reenacted to read:

2340           984.09 Punishment for contempt of court; alternative  
2341 sanctions.—

2342           (3) ALTERNATIVE SANCTIONS.—Upon determining that a child  
2343 has committed direct contempt of court or indirect contempt of a  
2344 valid court order, the court may immediately request the circuit  
2345 alternative sanctions coordinator to recommend the most  
2346 appropriate available alternative sanction and shall order the  
2347 child to perform up to 50 hours of community service or a  
2348 similar alternative sanction, unless an alternative sanction is  
2349 unavailable or inappropriate, or unless the child has failed to  
2350 comply with a prior alternative sanction. Alternative contempt  
2351 sanctions may be provided by local industry or by any nonprofit  
2352 organization or any public or private business or service entity  
2353 that has entered into a contract with the department to act as  
2354 an agent of the state to provide voluntary supervision of  
2355 children on behalf of the state in exchange for the labor of  
2356 children and limited immunity in accordance with s. 768.28(11).

2357           Section 59. For the purpose of incorporating the amendment  
2358 made by this act to section 768.28, Florida Statutes, in a  
2359 reference thereto, paragraph (h) of subsection (12) of section  
2360 1002.33, Florida Statutes, is reenacted to read:



401768

2361 1002.33 Charter schools.—

2362 (12) EMPLOYEES OF CHARTER SCHOOLS.—

2363 (h) For the purposes of tort liability, the charter school,  
2364 including its governing body and employees, shall be governed by  
2365 s. 768.28. This paragraph does not include any for-profit entity  
2366 contracted by the charter school or its governing body.

2367 Section 60. For the purpose of incorporating the amendment  
2368 made by this act to section 768.28, Florida Statutes, in a  
2369 reference thereto, paragraph (b) of subsection (6) of section  
2370 1002.333, Florida Statutes, is reenacted to read:

2371 1002.333 Persistently low-performing schools.—

2372 (6) STATUTORY AUTHORITY.—

2373 (b) For the purposes of tort liability, the hope operator,  
2374 the school of hope, and its employees or agents shall be  
2375 governed by s. 768.28. The sponsor shall not be liable for civil  
2376 damages under state law for the employment actions or personal  
2377 injury, property damage, or death resulting from an act or  
2378 omission of a hope operator, the school of hope, or its  
2379 employees or agents. This paragraph does not include any for-  
2380 profit entity contracted by the charter school or its governing  
2381 body.

2382 Section 61. For the purpose of incorporating the amendment  
2383 made by this act to section 768.28, Florida Statutes, in a  
2384 reference thereto, subsection (17) of section 1002.34, Florida  
2385 Statutes, is reenacted to read:

2386 1002.34 Charter technical career centers.—

2387 (17) IMMUNITY.—For the purposes of tort liability, the  
2388 governing body and employees of a center are governed by s.  
2389 768.28.



401768

2390           Section 62. For the purpose of incorporating the amendment  
2391 made by this act to section 768.28, Florida Statutes, in a  
2392 reference thereto, subsection (2) of section 1002.37, Florida  
2393 Statutes, is reenacted to read:

2394           1002.37 The Florida Virtual School.—

2395           (2) The Florida Virtual School shall be governed by a board  
2396 of trustees comprised of seven members appointed by the Governor  
2397 to 4-year staggered terms. The board of trustees shall be a  
2398 public agency entitled to sovereign immunity pursuant to s.  
2399 768.28, and board members shall be public officers who shall  
2400 bear fiduciary responsibility for the Florida Virtual School.  
2401 The board of trustees shall have the following powers and  
2402 duties:

2403           (a)1. The board of trustees shall meet at least 4 times  
2404 each year, upon the call of the chair, or at the request of a  
2405 majority of the membership.

2406           2. The fiscal year for the Florida Virtual School shall be  
2407 the state fiscal year as provided in s. 216.011(1)(g).

2408           (b) The board of trustees shall be responsible for the  
2409 Florida Virtual School's development of a state-of-the-art  
2410 technology-based education delivery system that is cost-  
2411 effective, educationally sound, marketable, and capable of  
2412 sustaining a self-sufficient delivery system through the Florida  
2413 Education Finance Program.

2414           (c) The board of trustees shall aggressively seek avenues  
2415 to generate revenue to support its future endeavors, and shall  
2416 enter into agreements with distance learning providers. The  
2417 board of trustees may acquire, enjoy, use, and dispose of  
2418 patents, copyrights, and trademarks and any licenses and other



401768

2419 rights or interests thereunder or therein. Ownership of all such  
2420 patents, copyrights, trademarks, licenses, and rights or  
2421 interests thereunder or therein shall vest in the state, with  
2422 the board of trustees having full right of use and full right to  
2423 retain the revenues derived therefrom. Any funds realized from  
2424 patents, copyrights, trademarks, or licenses shall be considered  
2425 internal funds as provided in s. 1011.07. Such funds shall be  
2426 used to support the school's marketing and research and  
2427 development activities in order to improve courseware and  
2428 services to its students.

2429 (d) The board of trustees shall be responsible for the  
2430 administration and control of all local school funds derived  
2431 from all activities or sources and shall prescribe the  
2432 principles and procedures to be followed in administering these  
2433 funds.

2434 (e) The Florida Virtual School may accrue supplemental  
2435 revenue from supplemental support organizations, which include,  
2436 but are not limited to, alumni associations, foundations,  
2437 parent-teacher associations, and booster associations. The  
2438 governing body of each supplemental support organization shall  
2439 recommend the expenditure of moneys collected by the  
2440 organization for the benefit of the school. Such expenditures  
2441 shall be contingent upon the review of the executive director.  
2442 The executive director may override any proposed expenditure of  
2443 the organization that would violate Florida law or breach sound  
2444 educational management.

2445 (f) In accordance with law and rules of the State Board of  
2446 Education, the board of trustees shall administer and maintain  
2447 personnel programs for all employees of the board of trustees



401768

2448 and the Florida Virtual School. The board of trustees may adopt  
2449 rules, policies, and procedures related to the appointment,  
2450 employment, and removal of personnel.

2451 1. The board of trustees shall determine the compensation,  
2452 including salaries and fringe benefits, and other conditions of  
2453 employment for such personnel.

2454 2. The board of trustees may establish and maintain a  
2455 personnel loan or exchange program by which persons employed by  
2456 the board of trustees for the Florida Virtual School as academic  
2457 administrative and instructional staff may be loaned to, or  
2458 exchanged with persons employed in like capacities by, public  
2459 agencies either within or without this state, or by private  
2460 industry. With respect to public agency employees, the program  
2461 authorized by this subparagraph shall be consistent with the  
2462 requirements of part II of chapter 112. The salary and benefits  
2463 of board of trustees personnel participating in the loan or  
2464 exchange program shall be continued during the period of time  
2465 they participate in a loan or exchange program, and such  
2466 personnel shall be deemed to have no break in creditable or  
2467 continuous service or employment during such time. The salary  
2468 and benefits of persons participating in the personnel loan or  
2469 exchange program who are employed by public agencies or private  
2470 industry shall be paid by the originating employers of those  
2471 participants, and such personnel shall be deemed to have no  
2472 break in creditable or continuous service or employment during  
2473 such time.

2474 3. The employment of all Florida Virtual School academic  
2475 administrative and instructional personnel shall be subject to  
2476 rejection for cause by the board of trustees, and shall be



401768

2477 subject to policies of the board of trustees relative to  
2478 certification, tenure, leaves of absence, sabbaticals,  
2479 remuneration, and such other conditions of employment as the  
2480 board of trustees deems necessary and proper, not inconsistent  
2481 with law.

2482         4. Each person employed by the board of trustees in an  
2483 academic administrative or instructional capacity with the  
2484 Florida Virtual School shall be entitled to a contract as  
2485 provided by rules of the board of trustees.

2486         5. All employees except temporary, seasonal, and student  
2487 employees may be state employees for the purpose of being  
2488 eligible to participate in the Florida Retirement System and  
2489 receive benefits. The classification and pay plan, including  
2490 terminal leave and other benefits, and any amendments thereto,  
2491 shall be subject to review and approval by the Department of  
2492 Management Services and the Executive Office of the Governor  
2493 prior to adoption.

2494         (g) The board of trustees shall establish priorities for  
2495 admission of students in accordance with paragraph (1)(b).

2496         (h) The board of trustees shall establish and distribute to  
2497 all school districts and high schools in the state procedures  
2498 for enrollment of students in courses offered by the Florida  
2499 Virtual School.

2500         (i) The board of trustees shall establish criteria defining  
2501 the elements of an approved franchise. The board of trustees may  
2502 enter into franchise agreements with Florida district school  
2503 boards and may establish the terms and conditions governing such  
2504 agreements. The board of trustees shall establish the  
2505 performance and accountability measures and report the



401768

2506 performance of each school district franchise to the  
2507 Commissioner of Education.

2508 (j) The board of trustees shall submit to the State Board  
2509 of Education both forecasted and actual enrollments and credit  
2510 completions for the Florida Virtual School, according to  
2511 procedures established by the State Board of Education. At a  
2512 minimum, such procedures must include the number of public,  
2513 private, and home education students served by program and by  
2514 county of residence.

2515 (k) The board of trustees shall provide for the content and  
2516 custody of student and employee personnel records. Student  
2517 records shall be subject to the provisions of s. 1002.22.  
2518 Employee records shall be subject to the provisions of s.  
2519 1012.31.

2520 (l) The financial records and accounts of the Florida  
2521 Virtual School shall be maintained under the direction of the  
2522 board of trustees and under rules adopted by the State Board of  
2523 Education for the uniform system of financial records and  
2524 accounts for the schools of the state.

2525  
2526 The Governor shall designate the initial chair of the board of  
2527 trustees to serve a term of 4 years. Members of the board of  
2528 trustees shall serve without compensation, but may be reimbursed  
2529 for per diem and travel expenses pursuant to s. 112.061. The  
2530 board of trustees shall be a body corporate with all the powers  
2531 of a body corporate and such authority as is needed for the  
2532 proper operation and improvement of the Florida Virtual School.  
2533 The board of trustees is specifically authorized to adopt rules,  
2534 policies, and procedures, consistent with law and rules of the



401768

2535 State Board of Education related to governance, personnel,  
2536 budget and finance, administration, programs, curriculum and  
2537 instruction, travel and purchasing, technology, students,  
2538 contracts and grants, and property as necessary for optimal,  
2539 efficient operation of the Florida Virtual School. Tangible  
2540 personal property owned by the board of trustees shall be  
2541 subject to the provisions of chapter 273.

2542 Section 63. For the purpose of incorporating the amendment  
2543 made by this act to section 768.28, Florida Statutes, in a  
2544 reference thereto, paragraph (1) of subsection (3) of section  
2545 1002.55, Florida Statutes, is reenacted to read:

2546 1002.55 School-year prekindergarten program delivered by  
2547 private prekindergarten providers.—

2548 (3) To be eligible to deliver the prekindergarten program,  
2549 a private prekindergarten provider must meet each of the  
2550 following requirements:

2551 (1) Notwithstanding paragraph (j), for a private  
2552 prekindergarten provider that is a state agency or a subdivision  
2553 thereof, as defined in s. 768.28(2), the provider must agree to  
2554 notify the coalition of any additional liability coverage  
2555 maintained by the provider in addition to that otherwise  
2556 established under s. 768.28. The provider shall indemnify the  
2557 coalition to the extent permitted by s. 768.28. Notwithstanding  
2558 paragraph (j), for a child development program that is  
2559 accredited by a national accrediting body and operates on a  
2560 military installation that is certified by the United States  
2561 Department of Defense, the provider may demonstrate liability  
2562 coverage by affirming that it is subject to the Federal Tort  
2563 Claims Act, 28 U.S.C. ss. 2671 et seq.



401768

2564           Section 64. For the purpose of incorporating the amendment  
2565 made by this act to section 768.28, Florida Statutes, in a  
2566 reference thereto, subsection (10) of section 1002.83, Florida  
2567 Statutes, is reenacted to read:

2568           1002.83 Early learning coalitions.-

2569           (10) For purposes of tort liability, each member or  
2570 employee of an early learning coalition shall be governed by s.  
2571 768.28.

2572           Section 65. For the purpose of incorporating the amendment  
2573 made by this act to section 768.28, Florida Statutes, in a  
2574 reference thereto, paragraph (p) of subsection (1) of section  
2575 1002.88, Florida Statutes, is reenacted to read:

2576           1002.88 School readiness program provider standards;  
2577 eligibility to deliver the school readiness program.-

2578           (1) To be eligible to deliver the school readiness program,  
2579 a school readiness program provider must:

2580           (p) Notwithstanding paragraph (m), for a provider that is a  
2581 state agency or a subdivision thereof, as defined in s.  
2582 768.28(2), agree to notify the coalition of any additional  
2583 liability coverage maintained by the provider in addition to  
2584 that otherwise established under s. 768.28. The provider shall  
2585 indemnify the coalition to the extent permitted by s. 768.28.  
2586 Notwithstanding paragraph (m), for a child development program  
2587 that is accredited by a national accrediting body and operates  
2588 on a military installation that is certified by the United  
2589 States Department of Defense, the provider may demonstrate  
2590 liability coverage by affirming that it is subject to the  
2591 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

2592           Section 66. For the purpose of incorporating the amendment



401768

2593 made by this act to section 768.28, Florida Statutes, in a  
2594 reference thereto, subsection (1) of section 1006.24, Florida  
2595 Statutes, is reenacted to read:

2596 1006.24 Tort liability; liability insurance.-

2597 (1) Each district school board shall be liable for tort  
2598 claims arising out of any incident or occurrence involving a  
2599 school bus or other motor vehicle owned, maintained, operated,  
2600 or used by the district school board to transport persons, to  
2601 the same extent and in the same manner as the state or any of  
2602 its agencies or subdivisions is liable for tort claims under s.  
2603 768.28, except that the total liability to persons being  
2604 transported for all claims or judgments of such persons arising  
2605 out of the same incident or occurrence shall not exceed an  
2606 amount equal to \$5,000 multiplied by the rated seating capacity  
2607 of the school bus or other vehicle, as determined by rules of  
2608 the State Board of Education, or \$100,000, whichever is greater.  
2609 The provisions of s. 768.28 apply to all claims or actions  
2610 brought against district school boards, as authorized in this  
2611 subsection.

2612 Section 67. For the purpose of incorporating the amendment  
2613 made by this act to section 768.28, Florida Statutes, in a  
2614 reference thereto, paragraph (b) of subsection (2) of section  
2615 1006.261, Florida Statutes, is reenacted to read:

2616 1006.261 Use of school buses for public purposes.-

2617 (2)

2618 (b) For purposes of liability for negligence, state  
2619 agencies or subdivisions as defined in s. 768.28(2) shall be  
2620 covered by s. 768.28. Every other corporation or organization  
2621 shall provide liability insurance coverage in the minimum



401768

2622 amounts of \$100,000 on any claim or judgment and \$200,000 on all  
2623 claims and judgments arising from the same incident or  
2624 occurrence.

2625 Section 68. This act shall take effect October 1, 2026.

2626

2627 ===== T I T L E A M E N D M E N T =====

2628 And the title is amended as follows:

2629 Delete everything before the enacting clause  
2630 and insert:

2631 A bill to be entitled  
2632 An act relating to claims against the government;  
2633 amending s. 768.28, F.S.; increasing the statutory  
2634 limits on the liability of the state and its agencies  
2635 and subdivisions for tort claims; revising exceptions  
2636 relating to instituting actions on tort claims against  
2637 the state or one of its agencies or subdivisions;  
2638 revising the period after which the failure of certain  
2639 entities to make a final disposition of a claim shall  
2640 be deemed a final denial of the claim for certain  
2641 purposes; revising the statute of limitations for tort  
2642 claims against the state or one of its agencies or  
2643 subdivisions and exceptions thereto; deleting obsolete  
2644 language; making technical changes; providing  
2645 applicability; amending ss. 29.0081, 39.8297, 343.811,  
2646 and 944.713, F.S.; conforming cross references;  
2647 conforming provisions to changes made by the act;  
2648 reenacting ss. 45.061(5), 95.11(6)(f), 110.504(4),  
2649 111.071(1)(a), 125.01015(2)(b), 163.01(3)(h) and  
2650 (15)(k), 190.043, 213.015(13), 252.51, 252.89,



2651 252.944, 260.0125(2), 284.31, 284.38, 322.13(1)(b),  
2652 337.19(1), 341.302(17), 343.811(3), 351.03(4)(c),  
2653 373.1395(6), 375.251(3)(a), 381.0056(9), 393.075(3),  
2654 394.9085(7), 395.1055(10)(g), 403.706(17)(c),  
2655 409.175(15)(b), 409.993(1), (2)(a), and (3)(a),  
2656 420.504(8), 455.221(3), 455.32(5), 456.009(3),  
2657 456.076(15)(a), 471.038(3), 472.006(11)(b),  
2658 497.167(7), 513.118(2), 548.046(1), 556.106(8),  
2659 589.19(4)(e), 627.7491(3) and (4), 723.0611(2)(c),  
2660 760.11(5), 766.1115(4), 766.112(2), 768.1355(3),  
2661 768.1382(7), 768.295(4), 946.5026, 946.514(3),  
2662 961.06(8), 984.09(3), 1002.33(12)(h), 1002.333(6)(b),  
2663 1002.34(17), 1002.37(2), 1002.55(3)(1), 1002.83(10),  
2664 1002.88(1)(p), 1006.24(1), and 1006.261(2)(b), F.S.,  
2665 relating to offers of settlement; limitations other  
2666 than for the recovery of real property; volunteer  
2667 benefits; payment of judgments or settlements against  
2668 certain public officers or employees; office of the  
2669 sheriff; the Florida Interlocal Cooperation Act of  
2670 1969; suits against community development districts;  
2671 taxpayer rights; liability; tort liability; tort  
2672 liability; limitation on liability of private  
2673 landowners whose property is designated as part of the  
2674 statewide system of greenways and trails; scope and  
2675 types of coverages; effect of waiver of sovereign  
2676 immunity; driver license examiners; suits by and  
2677 against the Department of Transportation; rail  
2678 program; power to assume indemnification and insurance  
2679 obligations; railroad-highway grade-crossing warning



401768

2680 signs and signals; limitation on liability of a water  
2681 management district with respect to areas made  
2682 available to the public for recreational purposes  
2683 without charge; limitation on liability of persons  
2684 making available to the public certain areas for  
2685 recreational purposes without charge; school health  
2686 services program; general liability coverage;  
2687 behavioral provider liability; rules and enforcement;  
2688 local government solid waste responsibilities;  
2689 licensure of family foster homes, residential child-  
2690 caring agencies, and child-placing agencies; lead  
2691 agencies and subcontractor liability; the Florida  
2692 Housing Finance Corporation; legal and investigative  
2693 services; the Management Privatization Act; legal and  
2694 investigative services; impaired practitioner  
2695 programs; the Florida Engineers Management  
2696 Corporation; the Department of Agriculture and  
2697 Consumer Services; administrative matters; conduct on  
2698 premises and refusal of service; physician's  
2699 attendance at match; liability of the member operator,  
2700 excavator, and system; creation of certain state  
2701 forests, naming of certain state forests, and the  
2702 Operation Outdoor Freedom Program; official law  
2703 enforcement vehicles and motor vehicle insurance  
2704 requirements; the Florida Mobile Home Relocation  
2705 Corporation; administrative and civil remedies and  
2706 construction; health care providers and creation of  
2707 agency relationship with governmental contractors;  
2708 comparative fault; the Florida Volunteer Protection



401768

2709 Act; streetlights, security lights, and other similar  
2710 illumination and limitation on liability; Strategic  
2711 Lawsuits Against Public Participation (SLAPP)  
2712 prohibited; sovereign immunity in tort actions;  
2713 liability of corporation for inmate injuries;  
2714 compensation for wrongful incarceration; punishment  
2715 for contempt of court and alternative sanctions;  
2716 charter schools; persistently low-performing schools;  
2717 charter technical career centers; the Florida Virtual  
2718 School; school-year prekindergarten program delivered  
2719 by private prekindergarten providers; early learning  
2720 coalitions; school readiness program provider  
2721 standards and eligibility to deliver the school  
2722 readiness program; tort liability and liability  
2723 insurance; and use of school buses for public  
2724 purposes, respectively, to incorporate changes made to  
2725 s. 768.28, F.S., in references thereto; providing an  
2726 effective date.