

1 A bill to be entitled
2 An act relating to suits against the government;
3 amending s. 768.28, F.S.; increasing the statutory
4 limits on liability for tort claims against the state
5 and its agencies and subdivisions; authorizing a
6 subdivision of the state to settle a claim in excess
7 of the statutory limit without further action by the
8 Legislature regardless of insurance coverage limits;
9 prohibiting an insurance policy from conditioning
10 payment of benefits on the enactment of a claim bill;
11 specifying that the limitations in effect on the date
12 the claim accrues apply to that claim; revising the
13 period within which certain claims must be presented
14 to certain entities; revising exceptions relating to
15 instituting actions on tort claims against the state
16 or one of its agencies or subdivisions; revising the
17 period after which the failure of certain entities to
18 make final disposition of a claim shall be deemed a
19 final denial of the claim for certain purposes;
20 revising the statute of limitations for tort claims
21 against the state or one of its agencies or
22 subdivisions and exceptions thereto; providing
23 applicability; amending s. 944.713, F.S., conforming
24 provisions to changes made by the act; providing
25 applicability; reenacting ss. 45.061(5), 95.11(6)(f),

110.504(4), 111.071(1)(a), 125.01015(2)(b),
163.01(3)(h) and (15)(k), 190.043, 213.015(13),
252.51, 252.89, 252.944, 260.0125(2), 284.31, 284.38,
322.13(1)(b), 337.19(1), 341.302(17), 343.811(3),
351.03(4)(c), 373.1395(6), 375.251(3)(a), 381.0056(9),
393.075(3), 394.9085(7), 395.1055(10)(g),
403.706(17)(c), 409.175(15)(b), 409.993(1), (2)(a),
and (3)(a), 420.504(8), 455.221(3), 455.32(5),
456.009(3), 456.076(15)(a), 471.038(3),
472.006(11)(b), 497.167(7), 513.118(2), 548.046(1),
556.106(8), 589.19(4)(e), 627.7491(3) and (4),
723.0611(2)(c), 760.11(5), 766.1115(4), 766.112(2),
768.1355(3), 768.1382(7), 768.295(4), 946.5026,
946.514(3), 961.06 (8), 984.09(3), 1002.33(12)(h),
1002.333(6)(b), 1002.34(17), 1002.351(3)(c),
1002.37(2), 1002.55(3)(1), 1002.83(10), 1002.88(1)(p),
1006.24(1), and 1006.261(2)(b), F.S., relating to
offers of settlement, limitations other than for the
recovery of real property, volunteer benefits, payment
of judgments or settlements against certain public
officers or employees, office of the sheriff, the
Florida Interlocal Cooperation Act of 1969, suits
against community development districts, taxpayer
rights, liability, tort liability, tort liability,
limitation on liability of private landowners whose

property is designated as part of the statewide system of greenways and trails, scope and types of coverages, effect of waiver of sovereign immunity, driver license examiners, suits by and against the Department of Transportation, rail program, power to assume indemnification and insurance obligations, railroad-highway grade-crossing warning signs and signals, limitation on liability of water management district with respect to areas made available to the public for recreational purposes without charge, limitation on liability of persons making available to public certain areas for recreational purposes without charge, school health services program, general liability coverage, behavioral provider liability, rules and enforcement, local government solid waste responsibilities, licensure of family foster homes, residential child-caring agencies, and child-placing agencies, lead agencies and subcontractor liability, the Florida Housing Finance Corporation, legal and investigative services, the Management Privatization Act, legal and investigative services, impaired practitioner programs, the Florida Engineers Management Corporation, the Department of Agriculture and Consumer Services, administrative matters, conduct on premises, refusal of service, physician's

attendance at match, liability of the member operator,
excavator, and system, creation of certain state
forests, naming of certain state forests, Operation
Outdoor Freedom Program, official law enforcement
vehicles, motor vehicle insurance requirements, the
Florida Mobile Home Relocation Corporation,
administrative and civil remedies, construction,
health care providers, creation of agency relationship
with governmental contractors, comparative fault, the
Florida Volunteer Protection Act, streetlights,
security lights, and other similar illumination,
limitation on liability, Strategic Lawsuits Against
Public Participation (SLAPP), sovereign immunity in
tort actions, liability of corporation for inmate
injuries, compensation for wrongful incarceration,
punishment for contempt of court, alternative
sanctions, charter schools, persistently low-
performing schools, charter technical career centers,
the Florida School for Competitive Academics, the
Florida Virtual School, school-year prekindergarten
program delivered by private prekindergarten
providers, early learning coalitions, school readiness
program provider standards, eligibility to deliver the
school readiness program, tort liability, liability
insurance, and use of school buses for public

purposes, respectively, to incorporate changes made by the act; providing an effective date.

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

Section 1. Subsection (5), paragraphs (a) and (d) of subsection (6), and subsection (14) of section 768.28, Florida Statutes, are amended to read:

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

(5)(a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment that ~~by any one person which~~ exceeds the limits in paragraph (b).

(b)1. If the cause of action accrued before October 1, 2026, the limitations are as follows:

a. For a claim or judgment by any one person, \$200,000.

b. For multiple claims or judgments, or portions thereof, which arise out of the same incident or occurrence, a total of \$300,000.

126 2. If the cause of action accrued on or after October 1,
127 2026, but before October 1, 2031, the limitations are as
128 follows:

129 a. For a claim or judgment by any one person, \$500,000.

130 b. For multiple claims or judgments, or portions thereof,
131 which arise out of the same incident or occurrence, a total of
132 \$1 million.

133 3. If the cause of action accrued on or after October 1,
134 2031, the limitations are as follows:

135 a. For a claim or judgment by any one person, \$600,000.

136 b. For multiple claims or judgments, or portions thereof,
137 which arise out of the same incident or occurrence, a total of
138 \$1.2 million ~~sum of \$200,000 or any claim or judgment, or~~
139 ~~portions thereof, which, when totaled with all other claims or~~
140 ~~judgments paid by the state or its agencies or subdivisions~~
141 ~~arising out of the same incident or occurrence, exceeds the sum~~
142 ~~of \$300,000.~~

143 (c) However, a judgment or judgments may be claimed and
144 rendered in excess of these amounts ~~and may be settled~~ and paid
145 pursuant to this act up to the limitations provided under
146 paragraph (b) ~~\$200,000 or \$300,000~~, as the case may be; and that
147 portion of the judgment that exceeds these amounts may be
148 reported to the Legislature, and ~~but~~ may be paid in part or in
149 whole ~~only~~ by further act of the Legislature.

150 (d) Notwithstanding the limited waiver of sovereign

immunity provided in paragraphs (a) and (b):

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

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

However, ~~but~~ the state or an agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the ~~\$200,000 or \$300,000~~ waiver provided in paragraph (b). Beginning October 1, 2026, an insurance policy may not be delivered or issued for delivery to the state or any agency or subdivision thereof with a provision that conditions liability coverage or the payment of insurance benefits, in whole or in part, on the enactment of a claim bill. Any such provision is null and void ~~above.~~

(e) The limitations of liability set forth in this subsection ~~shall~~ apply to the state and its agencies and subdivisions whether or not the state or its agencies or

subdivisions possessed sovereign immunity before July 1, 1974.

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

(g) When determining liability limits for a claim, the limitations of liability in effect on the date the claim accrues shall apply to the claim.

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

201 1. Such claim is for contribution pursuant to s. 768.31,
202 it must be so presented within 6 months after the judgment
203 against the tortfeasor seeking contribution has become final by
204 lapse of time for appeal or after appellate review or, if there
205 is no such judgment, within 6 months after the tortfeasor
206 seeking contribution has either discharged the common liability
207 by payment or agreed, while the action is pending against her or
208 him, to discharge the common liability; or

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

217 (d) For purposes of this section, complete, accurate, and
218 timely compliance with the requirements of paragraph (c) shall
219 occur prior to settlement payment, close of discovery or
220 commencement of trial, whichever is sooner; provided the ability
221 to plead setoff is not precluded by the delay. This setoff shall
222 apply only against that part of the settlement or judgment
223 payable to the claimant, minus claimant's reasonable attorney
224 ~~attorney's~~ fees and costs. Incomplete or inaccurate disclosure
225 of unpaid adjudicated claims due the state, its agency, officer,

or subdivision, may be excused by the court upon a showing by the preponderance of the evidence of the claimant's lack of knowledge of an adjudicated claim and reasonable inquiry by, or on behalf of, the claimant to obtain the information from public records. Unless the appropriate agency had actual notice of the information required to be disclosed by paragraph (c) in time to assert a setoff, an unexcused failure to disclose shall, upon hearing and order of court, cause the claimant to be liable for double the original undisclosed judgment and, upon further motion, the court shall enter judgment for the agency in that amount. Except as provided otherwise in this subsection, the failure of the Department of Financial Services or the appropriate agency to make final disposition of a claim within 4 ~~6~~ months after it is filed shall be deemed a final denial of the claim for purposes of this section. For purposes of this subsection, in medical malpractice actions and in wrongful death actions, the failure of the Department of Financial Services or the appropriate agency to make final disposition of a claim within 90 days after it is filed shall be deemed a final denial of the claim. The statute of limitations ~~for medical malpractice actions and wrongful death actions~~ is tolled as to all prospective defendants for the period of time taken by the Department of Financial Services or the appropriate agency to deny the claim. The provisions of this subsection do not apply to such claims as may be asserted by counterclaim pursuant to s.

768.14.

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

(a) Within 2 4 years for an action founded on negligence.

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

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

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

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

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

944.713 Insurance against liability.—

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

Section 3. Except as otherwise expressly provided in this act, this act shall apply to causes of action accruing after the effective date of this act.

Section 4. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (5) of section 45.061, Florida Statutes, is reenacted to read:

45.061 Offers of settlement.—

(5) Sanctions authorized under this section may be imposed notwithstanding any limitation on recovery of costs or expenses

which may be provided by contract or in other provisions of Florida law. This section shall not be construed to waive the limits of sovereign immunity set forth in s. 768.28.

Section 5. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (f) of subsection (6) of section 95.11, Florida Statutes, is reenacted to read:

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

(6) WITHIN ONE YEAR.—

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

Section 6. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (4) of section 110.504, Florida Statutes, is reenacted to read:

110.504 Volunteer benefits.—

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

Section 7. 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 (1) of section 111.071, Florida Statutes, is reenacted to read:

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

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

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

intentionally.

Section 8. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 125.01015, Florida Statutes, is reenacted to read:

125.01015 Office of the sheriff.—

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

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

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

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

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

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

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

383 6. Notwithstanding any provision to the contrary, for a
384 term commencing on January 7, 2025, and ending on or after
385 September 30, 2028, provide the sheriff-elect taking office
386 with, and require the sheriff-elect taking office to use, not
387 less than the substantially and materially same support
388 services, facilities, office space, and information technology
389 infrastructure provided to county offices or departments
390 performing the duties to be performed by the sheriff-elect upon
391 taking office in the 1-year period before he or she takes
392 office.

393 a. As used in this subparagraph, the term "support
394 services" includes:

395 (I) Property and facilities, and the management and
396 maintenance for such property and facilities.

397 (II) Communications infrastructure, including telephone
398 and Internet connectivity.

399 (III) Risk management, including processing, adjusting,
400 and payment of all claims and demands, including those made

401 under s. 768.28. The county shall provide the sheriff with all
402 required general liability, property, and other insurance
403 coverage through its self-insurance program, a self-insurance
404 risk pool, or commercial insurance. If the county provides
405 insurance through a self-insurance program, the county must also
406 provide the sheriff with commercial stop-loss coverage in an
407 amount and with a self-insured retention agreed upon by the
408 sheriff and the county.

409 (IV) Legal representation and advice through the office of
410 the county attorney for all claims, demands, and causes of
411 action brought against the sheriff, his or her deputies, or
412 other personnel in their official and individual capacities,
413 while acting in their official and individual capacities,
414 including any required outside counsel due to conflicts of
415 interest. This sub-sub-subparagraph does not prohibit the
416 sheriff from employing or retaining his or her own legal
417 representation as he or she deems necessary.

418 (V) Purchasing and procurement services using procedures
419 under the laws and ordinances applicable to the county for
420 purchases requiring competitive procurement.

421 (VI) Budget and fiscal software and budget development
422 services.

423 (VII) Human resource services, including, but not limited
424 to, facilitation of the hiring process, including employee
425 applicant screening and employee applicant background checks,

426 and employee benefit administration. The county may provide
427 human resource services to the sheriff. However, the sheriff is
428 the employer of his or her employees, and the sheriff retains
429 full and complete control and authority over the hiring of his
430 or her employees and the terms and conditions of employment,
431 including employee discipline and termination of employment. The
432 provision of human resource services by the county to the
433 sheriff does not create a joint-employer relationship. The
434 sheriff's employees shall remain members of the county's health
435 insurance and workers' compensation plans for at least the term
436 set forth in this subparagraph.

437 (VIII) Fleet management, including procurement of all
438 vehicles and other mobile assets such as boats and aircraft, and
439 all vehicle repair and maintenance.

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

442 (I) All hardware, including computers.

443 (II) Budget and fiscal software, including payroll and
444 purchasing software.

445 (III) Computer-aided dispatch.

446 c. Under a cost allocation plan agreed to by the county
447 and the sheriff, the sheriff shall pay the county for such
448 support services and information technology infrastructure from
449 his or her general fund budget, except for any support services
450 and information technology infrastructure costs that general law

otherwise and expressly requires the county to fund outside the sheriff's budget.

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

Section 9. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (h) of subsection (3) and paragraph (k) of subsection (15) of section 163.01, Florida Statutes, are reenacted to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(h) "Local government liability pool" means a reciprocal

insurer as defined in s. 629.011 or any self-insurance program created pursuant to s. 768.28(16), formed and controlled by counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

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

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

1. All other persons participating therein; and
2. Any person in any manner contracting with a legal entity of which any such public agency is a member, with relation to:

501 a. Ownership, operation, or any other activity set forth
502 in sub-subparagraph (b)2.d. with relation to any electric
503 project; or

504 b. The supplying or purchasing of services, output,
505 capacity, energy, or any combination thereof.

506 **Section 10. For the purpose of incorporating the amendment**
507 **made by this act to section 768.28, Florida Statutes, in a**
508 **reference thereto, section 190.043, Florida Statutes, is**
509 **reenacted to read:**

510 190.043 Suits against the district.—Any suit or action
511 brought or maintained against the district for damages arising
512 out of tort, including, without limitation, any claim arising
513 upon account of an act causing an injury or loss of property,
514 personal injury, or death, shall be subject to the limitations
515 provided in s. 768.28.

516 **Section 11. For the purpose of incorporating the amendment**
517 **made by this act to section 768.28, Florida Statutes, in a**
518 **reference thereto, subsection (13) of section 213.015, Florida**
519 **Statutes, is reenacted to read:**

520 213.015 Taxpayer rights.—There is created a Florida
521 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
522 and property of Florida taxpayers are adequately safeguarded and
523 protected during tax assessment, collection, and enforcement
524 processes administered under the revenue laws of this state. The
525 Taxpayer's Bill of Rights compiles, in one document, brief but

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

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

Section 12. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 252.51, Florida Statutes, is reenacted to read:

252.51 Liability.—Any person or organization, public or private, owning or controlling real estate or other premises who voluntarily and without compensation, other than payment or reimbursement of costs and expenses, grants a license or privilege or otherwise permits the designation by the local emergency management agency or use of the whole or any part of

such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice emergency, together with her or his successor in interest, if any, shall not be liable for the death of, or injury to, any person on or about such real estate or premises during the actual, impending, mock, or practice emergency, or for loss of, or damage to, the property of such person, solely by reason or as a result of such license, privilege, designation, or use, unless the gross negligence or the willful and wanton misconduct of such person owning or controlling such real estate or premises or her or his successor in interest is the proximate cause of such death, injury, loss, or damage occurring during such sheltering period. Any such person or organization who provides such shelter space for compensation shall be deemed to be an instrumentality of the state or its applicable agency or subdivision for the purposes of s. 768.28.

Section 13. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 252.89, Florida Statutes, is reenacted to read:

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

Section 14. For the purpose of incorporating the amendment

576 **made by this act to section 768.28, Florida Statutes, in a**
577 **reference thereto, section 252.944, Florida Statutes, is**
578 **reenacted to read:**

579 252.944 Tort liability.—The commission and the committees
580 are state agencies, and the members of the commission and
581 committees are officers, employees, or agents of the state for
582 the purpose of s. 768.28.

583 **Section 15. For the purpose of incorporating the amendment**
584 **made by this act to section 768.28, Florida Statutes, in a**
585 **reference thereto, subsection (2) of section 260.0125, Florida**
586 **Statutes, is reenacted to read:**

587 260.0125 Limitation on liability of private landowners
588 whose property is designated as part of the statewide system of
589 greenways and trails.—

590 (2) Any private landowner who consents to designation of
591 his or her land as part of the statewide system of greenways and
592 trails pursuant to s. 260.016(2)(d) without compensation shall
593 be considered a volunteer, as defined in s. 110.501, and shall
594 be covered by state liability protection pursuant to s. 768.28,
595 including s. 768.28(9).

596 **Section 16. For the purpose of incorporating the amendment**
597 **made by this act to section 768.28, Florida Statutes, in a**
598 **reference thereto, section 284.31, Florida Statutes, is**
599 **reenacted to read:**

600 284.31 Scope and types of coverages; separate accounts.—

The Insurance Risk Management Trust Fund must, unless specifically excluded by the Department of Financial Services, cover all departments of the State of Florida and their employees, agents, and volunteers and must provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, state agency firefighter cancer benefits payable under s. 112.1816(2), and court-awarded attorney fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. Unless specifically excluded by the Department of Financial Services, the Insurance Risk Management Trust Fund must provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage is primary and is subject to s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Financial Services.

Section 17. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a

reference thereto, section 284.38, Florida Statutes, is reenacted to read:

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

Section 18. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 322.13, Florida Statutes, is reenacted to read:

322.13 Driver license examiners.—

(1)

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

Section 19. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 337.19, Florida

Statutes, is reenacted to read:

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

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

Section 20. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (17) of section 341.302, Florida Statutes, is reenacted to read:

341.302 Rail program; duties and responsibilities of the

676 department.—The department, in conjunction with other
677 governmental entities, including the rail enterprise and the
678 private sector, shall develop and implement a rail program of
679 statewide application designed to ensure the proper maintenance,
680 safety, revitalization, and expansion of the rail system to
681 assure its continued and increased availability to respond to
682 statewide mobility needs. Within the resources provided pursuant
683 to chapter 216, and as authorized under federal law, the
684 department shall:

685 (17) In conjunction with the acquisition, ownership,
686 construction, operation, maintenance, and management of a rail
687 corridor, have the authority to:

688 (a) Assume obligations pursuant to the following:

689 1.a. The department may assume the obligation by contract
690 to forever protect, defend, indemnify, and hold harmless the
691 freight rail operator, or its successors, from whom the
692 department has acquired a real property interest in the rail
693 corridor, and that freight rail operator's officers, agents, and
694 employees, from and against any liability, cost, and expense,
695 including, but not limited to, commuter rail passengers and rail
696 corridor invitees in the rail corridor, regardless of whether
697 the loss, damage, destruction, injury, or death giving rise to
698 any such liability, cost, or expense is caused in whole or in
699 part, and to whatever nature or degree, by the fault, failure,
700 negligence, misconduct, nonfeasance, or misfeasance of such

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

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

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

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

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

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

3. When only one train is involved in an incident, the

751 department may be solely responsible for any loss, injury, or
752 damage if the train is a department train or other train
753 pursuant to subparagraph 4., but only if:

754 a. When an incident occurs with only a freight train
755 involved, including incidents with trespassers or at grade
756 crossings, the freight rail operator is solely responsible for
757 any loss, injury, or damage, except for commuter rail passengers
758 and rail corridor invitees; or

759 b. When an incident occurs with only a National Railroad
760 Passenger Corporation train involved, including incidents with
761 trespassers or at grade crossings, National Railroad Passenger
762 Corporation is solely responsible for any loss, injury, or
763 damage, except for commuter rail passengers and rail corridor
764 invitees.

765 4. For the purposes of this subsection:

766 a. Any train involved in an incident that is neither the
767 department's train nor the freight rail operator's train,
768 hereinafter referred to in this subsection as an "other train,"
769 may be treated as a department train, solely for purposes of any
770 allocation of liability between the department and the freight
771 rail operator only, but only if the department and the freight
772 rail operator share responsibility equally as to third parties
773 outside the rail corridor who incur loss, injury, or damage as a
774 result of any incident involving both a department train and a
775 freight rail operator train, and the allocation as between the

776 department and the freight rail operator, regardless of whether
777 the other train is treated as a department train, shall remain
778 one-half each as to third parties outside the rail corridor who
779 incur loss, injury, or damage as a result of the incident. The
780 involvement of any other train shall not alter the sharing of
781 equal responsibility as to third parties outside the rail
782 corridor who incur loss, injury, or damage as a result of the
783 incident; or

784 b. Any train involved in an incident that is neither the
785 department's train nor the National Railroad Passenger
786 Corporation's train, hereinafter referred to in this subsection
787 as an "other train," may be treated as a department train,
788 solely for purposes of any allocation of liability between the
789 department and National Railroad Passenger Corporation only, but
790 only if the department and National Railroad Passenger
791 Corporation share responsibility equally as to third parties
792 outside the rail corridor who incur loss, injury, or damage as a
793 result of any incident involving both a department train and a
794 National Railroad Passenger Corporation train, and the
795 allocation as between the department and National Railroad
796 Passenger Corporation, regardless of whether the other train is
797 treated as a department train, shall remain one-half each as to
798 third parties outside the rail corridor who incur loss, injury,
799 or damage as a result of the incident. The involvement of any
800 other train shall not alter the sharing of equal responsibility

as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

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

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

(II) If only a department train and a National Railroad Passenger Corporation train, or only an other train as described in sub-subparagraph 4.b. and a National Railroad Passenger Corporation train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, and rail corridor invitees, but only if National Railroad Passenger Corporation is responsible for its property and all of its people, all National Railroad Passenger Corporation's rail passengers, and the department and National Railroad Passenger Corporation each share one-half responsibility as to trespassers or third parties outside the

826 rail corridor who incur loss, injury, or damage as a result of
827 the incident.

828 b.(I) If a department train, a freight rail operator
829 train, and any other train are involved in an incident, the
830 allocation of liability between the department and the freight
831 rail operator, regardless of whether the other train is treated
832 as a department train, shall remain one-half each as to third
833 parties outside the rail corridor who incur loss, injury, or
834 damage as a result of the incident; the involvement of any other
835 train shall not alter the sharing of equal responsibility as to
836 third parties outside the rail corridor who incur loss, injury,
837 or damage as a result of the incident; and, if the owner,
838 operator, or insurer of the other train makes any payment to
839 injured third parties outside the rail corridor who incur loss,
840 injury, or damage as a result of the incident, the allocation of
841 credit between the department and the freight rail operator as
842 to such payment shall not in any case reduce the freight rail
843 operator's third-party-sharing allocation of one-half under this
844 paragraph to less than one-third of the total third party
845 liability; or

846 (II) If a department train, a National Railroad Passenger
847 Corporation train, and any other train are involved in an
848 incident, the allocation of liability between the department and
849 National Railroad Passenger Corporation, regardless of whether
850 the other train is treated as a department train, shall remain

one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; the involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; and, if the owner, operator, or insurer of the other train makes any payment to injured third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, the allocation of credit between the department and National Railroad Passenger Corporation as to such payment shall not in any case reduce National Railroad Passenger Corporation's third-party-sharing allocation of one-half under this sub-subparagraph to less than one-third of the total third party liability.

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

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

insurance retention fund required pursuant to this paragraph;
and

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

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

(b) Purchase liability insurance, which amount shall not exceed \$200 million, and establish a self-insurance retention fund for the purpose of paying the deductible limit established in the insurance policies it may obtain, including coverage for the department, any freight rail operator as described in paragraph (a), National Railroad Passenger Corporation, commuter rail service providers, governmental entities, or any ancillary development, which self-insurance retention fund or deductible shall not exceed \$10 million. The insureds shall pay a reasonable monetary contribution to the cost of such liability coverage for the sole benefit of the insured. Such insurance and self-insurance retention fund may provide coverage for all damages, including, but not limited to, compensatory, special,

901 and exemplary, and be maintained to provide an adequate fund to
902 cover claims and liabilities for loss, injury, or damage arising
903 out of or connected with the ownership, operation, maintenance,
904 and management of a rail corridor.

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

907 (d) Without altering any of the rights granted to the
908 department under this section, agree to assume the obligations
909 to indemnify and insure, pursuant to s. 343.545, freight rail
910 service, intercity passenger rail service, and commuter rail
911 service on a department-owned rail corridor, whether ownership
912 is in fee or by easement, or on a rail corridor where the
913 department has the right to operate.

914
915 Neither the assumption by contract to protect, defend,
916 indemnify, and hold harmless; the purchase of insurance; nor the
917 establishment of a self-insurance retention fund shall be deemed
918 to be a waiver of any defense of sovereign immunity for torts
919 nor deemed to increase the limits of the department's or the
920 governmental entity's liability for torts as provided in s.
921 768.28. The requirements of s. 287.022(1) shall not apply to the
922 purchase of any insurance under this subsection. The provisions
923 of this subsection shall apply and inure fully as to any other
924 governmental entity providing commuter rail service and
925 constructing, operating, maintaining, or managing a rail

corridor on publicly owned right-of-way under contract by the governmental entity with the department or a governmental entity designated by the department. Notwithstanding any law to the contrary, procurement for the construction, operation, maintenance, and management of any rail corridor described in this subsection, whether by the department, a governmental entity under contract with the department, or a governmental entity designated by the department, shall be pursuant to s. 287.057 and shall include, but not be limited to, criteria for the consideration of qualifications, technical aspects of the proposal, and price. Further, any such contract for design-build shall be procured pursuant to the criteria in s. 337.11(7).

Section 21. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 343.811, Florida Statutes, is reenacted to read:

343.811 Power to assume indemnification and insurance obligations.—

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

(a) Assume obligations pursuant to the following:

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

951 (I) Any liability, cost, and expense, including, but not
952 limited to, the agency's passengers and other rail corridor
953 invitees in, on, or about the Coastal Link corridor, regardless
954 of whether the loss, damage, destruction, injury, or death
955 giving rise to any such liability, cost, or expense is caused in
956 whole or in part, and to whatever nature or degree, by the
957 fault, failure, negligence, misconduct, nonfeasance, or
958 misfeasance of such freight rail operator, its successors, or
959 its officers, agents, and employees, or any other person or
960 persons whomsoever.

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

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

968 (I) Any liability, cost, and expense, including, but not
969 limited to, the agency's passengers and rail corridor invitees
970 in the Coastal Link corridor, regardless of whether the loss,
971 damage, destruction, injury, or death giving rise to any such
972 liability, cost, or expense is caused in whole or in part, and
973 to whatever nature or degree, by the fault, failure, negligence,
974 misconduct, nonfeasance, or misfeasance of Brightline, its
975 successors, or its officers, agents, and employees, or any other

976 person or persons whomsoever.

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

981 2. The assumption of liability of the agency by contract
982 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may
983 not in any instance exceed the following parameters of
984 allocation of risk:

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

990 b.(I) In the event of a limited covered accident caused by
991 FECR, the authority of an agency to protect, defend, and
992 indemnify FECR for all liability, cost, and expense, including
993 punitive or exemplary damages, in excess of the self-insurance
994 retention amount exists only if FECR agrees, with respect to
995 such limited covered accident caused by FECR, to protect,
996 defend, and indemnify the agency for the amount of the self-
997 insurance retention amount.

998 (II) In the event of a limited covered accident caused by
999 Brightline, the authority of an agency to protect, defend, and
1000 indemnify Brightline for all liability, cost, and expense,

1001 including punitive or exemplary damages, in excess of the self-
1002 insurance retention amount exists only if Brightline agrees,
1003 with respect to such limited covered accident, to protect,
1004 defend, and indemnify the agency for the amount of the self-
1005 insurance retention amount.

1006 3. When only one train is involved in an incident and:

1007 a. The train is an agency's train, including an incident
1008 with trespassers or at-grade crossings, the agency may be solely
1009 responsible for any loss, injury, or damage.

1010 b. The train is FECR's train, including an incident with
1011 trespassers or at-grade crossings, FECR is solely responsible
1012 for any loss, injury, or damage, except for the agency's
1013 passengers and other rail corridor invitees, which are the
1014 responsibility of the agency, and Brightline's passengers and
1015 other rail corridor invitees, which are the responsibility of
1016 Brightline.

1017 c. The train is Brightline's train, including an incident
1018 with trespassers or at-grade crossings, Brightline is solely
1019 responsible for any loss, injury, or damage, except for the
1020 agency's passengers or rail corridor invitees, which are the
1021 responsibility of the agency, and FECR's rail corridor invitees,
1022 which are the responsibility of FECR.

1023 4. When an incident involves more than one operator, each
1024 operator is responsible for:

1025 a. Its property; passengers; employees, excluding

employees who are, at the time of the incident, rail corridor invitees of another operator; and other rail corridor invitees.

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

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

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

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

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

6. Notwithstanding any provision of this section to the contrary, the liabilities of the agency to the state or any

other agency shall be as set forth in an agreement among such entities and limited by s. 768.28(19).

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

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

2. Any self-insured retention account shall be a

segregated account of the agency and shall be subject to the same conditions, restrictions, exclusions, obligations, and duties included in any and all of the policies of liability insurance purchased under this paragraph.

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

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

Section 22. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 351.03, Florida Statutes, is reenacted to read:

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

(4)

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

1101 **Section 23. For the purpose of incorporating the amendment**
1102 **made by this act to section 768.28, Florida Statutes, in a**
1103 **reference thereto, subsection (6) of section 373.1395, Florida**
1104 **Statutes, is reenacted to read:**

1105 373.1395 Limitation on liability of water management
1106 district with respect to areas made available to the public for
1107 recreational purposes without charge.—

1108 (6) This section does not relieve any water management
1109 district of any liability that would otherwise exist for gross
1110 negligence or a deliberate, willful, or malicious injury to a
1111 person or property. This section does not create or increase the
1112 liability of any water management district or person beyond that
1113 which is authorized by s. 768.28.

1114 **Section 24. For the purpose of incorporating the amendment**
1115 **made by this act to section 768.28, Florida Statutes, in a**
1116 **reference thereto, paragraph (a) of subsection (3) of section**
1117 **375.251, Florida Statutes, is reenacted to read:**

1118 375.251 Limitation on liability of persons making
1119 available to public certain areas for recreational purposes
1120 without charge.—

1121 (3) (a) An owner of an area who enters into a written
1122 agreement concerning the area with a state agency for outdoor
1123 recreational purposes, where such agreement recognizes that the
1124 state agency is responsible for personal injury, loss, or damage
1125 resulting in whole or in part from the state agency's use of the

1126 area under the terms of the agreement subject to the limitations
1127 and conditions specified in s. 768.28, owes no duty of care to
1128 keep the area safe for entry or use by others, or to give
1129 warning to persons entering or going on the area of any
1130 hazardous conditions, structures, or activities thereon. An
1131 owner who enters into a written agreement concerning the area
1132 with a state agency for outdoor recreational purposes:

1133 1. Is not presumed to extend any assurance that the area
1134 is safe for any purpose;

1135 2. Does not incur any duty of care toward a person who
1136 goes on the area that is subject to the agreement; or

1137 3. Is not liable or responsible for any injury to persons
1138 or property caused by the act or omission of a person who goes
1139 on the area that is subject to the agreement.

1140 **Section 25. For the purpose of incorporating the amendment**
1141 **made by this act to section 768.28, Florida Statutes, in a**
1142 **reference thereto, subsection (9) of section 381.0056, Florida**
1143 **Statutes, is reenacted to read:**

1144 381.0056 School health services program.—

1145 (9) Any health care entity that provides school health
1146 services under contract with the department pursuant to a school
1147 health services plan developed under this section, and as part
1148 of a school nurse services public-private partnership, is deemed
1149 to be a corporation acting primarily as an instrumentality of
1150 the state solely for the purpose of limiting liability pursuant

1151 to s. 768.28(5). The limitations on tort actions contained in s.
1152 768.28(5) shall apply to any action against the entity with
1153 respect to the provision of school health services, if the
1154 entity is acting within the scope of and pursuant to guidelines
1155 established in the contract or by rule of the department. The
1156 contract must require the entity, or the partnership on behalf
1157 of the entity, to obtain general liability insurance coverage,
1158 with any additional endorsement necessary to insure the entity
1159 for liability assumed by its contract with the department. The
1160 Legislature intends that insurance be purchased by entities, or
1161 by partnerships on behalf of the entity, to cover all liability
1162 claims, and under no circumstances shall the state or the
1163 department be responsible for payment of any claims or defense
1164 costs for claims brought against the entity or its subcontractor
1165 for services performed under the contract with the department.
1166 This subsection does not preclude consideration by the
1167 Legislature for payment by the state of any claims bill
1168 involving an entity contracting with the department pursuant to
1169 this section.

1170 **Section 26. For the purpose of incorporating the amendment**
1171 **made by this act to section 768.28, Florida Statutes, in a**
1172 **reference thereto, subsection (3) of section 393.075, Florida**
1173 **Statutes, is reenacted to read:**

1174 393.075 General liability coverage.—

1175 (3) This section shall not be construed as designating or

not designating that a person who owns or operates a foster care facility or group home facility as described in this section or any other person is an employee or agent of the state. Nothing in this section amends, expands, or supersedes the provisions of s. 768.28.

Section 27. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (7) of section 394.9085, Florida Statutes, is reenacted to read:

394.9085 Behavioral provider liability.—

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

Section 28. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (g) of subsection (10) of section 395.1055, Florida Statutes, is reenacted to read:

395.1055 Rules and enforcement.—

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

(g) Panel members are agents of the state for purposes of

1201 s. 768.28 throughout the good faith performance of the duties
1202 assigned to them by the Secretary of Health Care Administration.

1203 **Section 29. For the purpose of incorporating the amendment**
1204 **made by this act to section 768.28, Florida Statutes, in a**
1205 **reference thereto, paragraph (c) of subsection (17) of section**
1206 **403.706, Florida Statutes, is reenacted to read:**

1207 403.706 Local government solid waste responsibilities.—

1208 (17) To effect the purposes of this part, counties and
1209 municipalities are authorized, in addition to other powers
1210 granted pursuant to this part:

1211 (c) To waive sovereign immunity and immunity from suit in
1212 federal court by vote of the governing body of the county or
1213 municipality to the extent necessary to carry out the authority
1214 granted in paragraphs (a) and (b), notwithstanding the
1215 limitations prescribed in s. 768.28.

1216 **Section 30. For the purpose of incorporating the amendment**
1217 **made by this act to section 768.28, Florida Statutes, in a**
1218 **reference thereto, paragraph (b) of subsection (15) of section**
1219 **409.175, Florida Statutes, is reenacted to read:**

1220 409.175 Licensure of family foster homes, residential
1221 child-caring agencies, and child-placing agencies; public
1222 records exemption.—

1223 (15)

1224 (b) This subsection may not be construed as designating or
1225 not designating that a person who owns or operates a family

foster home as described in this subsection or any other person is an employee or agent of the state. Nothing in this subsection amends, expands, or supersedes the provisions of s. 768.28.

Section 31. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1), paragraph (a) of subsection (2), and paragraph (a) of subsection (3) of section 409.993, Florida Statutes, are reenacted to read:

409.993 Lead agencies and subcontractor liability.—

(1) FINDINGS.—

(a) The Legislature finds that the state has traditionally provided foster care services to children who are the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services should be outsourced pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose of such outsourcing is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is the requirement that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers

1251 without the resources of such providers being significantly
1252 reduced by the cost of maintaining such insurance.

1253 (b) The Legislature further finds that, by requiring the
1254 following minimum levels of insurance, children in outsourced
1255 foster care and related services will gain increased protection
1256 and rights of recovery in the event of injury than currently
1257 provided in s. 768.28.

1258 (2) LEAD AGENCY LIABILITY.—

1259 (a) Other than an entity to which s. 768.28 applies, an
1260 eligible community-based care lead agency, or its employees or
1261 officers, except as otherwise provided in paragraph (b), shall,
1262 as a part of its contract, obtain a minimum of \$1 million per
1263 occurrence with a policy period aggregate limit of \$3 million in
1264 general liability insurance coverage. The lead agency must also
1265 require that staff who transport client children and families in
1266 their personal automobiles in order to carry out their job
1267 responsibilities obtain minimum bodily injury liability
1268 insurance in the amount of \$100,000 per person per any one
1269 automobile accident, and subject to such limits for each person,
1270 \$300,000 for all damages resulting from any one automobile
1271 accident, on their personal automobiles. In lieu of personal
1272 motor vehicle insurance, the lead agency's casualty, liability,
1273 or motor vehicle insurance carrier may provide nonowned
1274 automobile liability coverage. This insurance provides liability
1275 insurance for an automobile that the lead agency uses in

1276 connection with the lead agency's business but does not own,
1277 lease, rent, or borrow. This coverage includes an automobile
1278 owned by an employee of the lead agency or a member of the
1279 employee's household but only while the automobile is used in
1280 connection with the lead agency's business. The nonowned
1281 automobile coverage for the lead agency applies as excess
1282 coverage over any other collectible insurance. The personal
1283 automobile policy for the employee of the lead agency shall be
1284 primary insurance, and the nonowned automobile coverage of the
1285 lead agency acts as excess insurance to the primary insurance.
1286 The lead agency shall provide a minimum limit of \$1 million in
1287 nonowned automobile coverage. In a tort action brought against
1288 such a lead agency or employee, net economic damages shall be
1289 limited to \$2 million per liability claim and \$200,000 per
1290 automobile claim, including, but not limited to, past and future
1291 medical expenses, wage loss, and loss of earning capacity,
1292 offset by any collateral source payment paid or payable. In any
1293 tort action brought against a lead agency, noneconomic damages
1294 shall be limited to \$400,000 per claim. A claims bill may be
1295 brought on behalf of a claimant pursuant to s. 768.28 for any
1296 amount exceeding the limits specified in this paragraph. Any
1297 offset of collateral source payments made as of the date of the
1298 settlement or judgment shall be in accordance with s. 768.76.
1299 The lead agency is not liable in tort for the acts or omissions
1300 of its subcontractors or the officers, agents, or employees of

its subcontractors.

(3) SUBCONTRACTOR LIABILITY.—

(a) A subcontractor of an eligible community-based care lead agency that is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (c), must, as a part of its contract, obtain a minimum of \$1 million per occurrence with a policy period aggregate limit of \$3 million in general liability insurance coverage. The subcontractor of a lead agency must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of \$100,000 per person in any one automobile accident, and subject to such limits for each person, \$300,000 for all damages resulting from any one automobile accident, on their personal automobiles. In lieu of personal motor vehicle insurance, the subcontractor's casualty, liability, or motor vehicle insurance carrier may provide nonowned automobile liability coverage. This insurance provides liability insurance for automobiles that the subcontractor uses in connection with the subcontractor's business but does not own, lease, rent, or borrow. This coverage includes automobiles owned by the employees of the subcontractor or a member of the employee's household but only while the automobiles are used in connection with the subcontractor's business. The nonowned

1326 automobile coverage for the subcontractor applies as excess
1327 coverage over any other collectible insurance. The personal
1328 automobile policy for the employee of the subcontractor shall be
1329 primary insurance, and the nonowned automobile coverage of the
1330 subcontractor acts as excess insurance to the primary insurance.
1331 The subcontractor shall provide a minimum limit of \$1 million in
1332 nonowned automobile coverage. In a tort action brought against
1333 such subcontractor or employee, net economic damages shall be
1334 limited to \$2 million per liability claim and \$200,000 per
1335 automobile claim, including, but not limited to, past and future
1336 medical expenses, wage loss, and loss of earning capacity,
1337 offset by any collateral source payment paid or payable. In a
1338 tort action brought against such subcontractor, noneconomic
1339 damages shall be limited to \$400,000 per claim. A claims bill
1340 may be brought on behalf of a claimant pursuant to s. 768.28 for
1341 any amount exceeding the limits specified in this paragraph. Any
1342 offset of collateral source payments made as of the date of the
1343 settlement or judgment shall be in accordance with s. 768.76.

1344 **Section 32. For the purpose of incorporating the amendment**
1345 **made by this act to section 768.28, Florida Statutes, in a**
1346 **reference thereto, subsection (8) of section 420.504, Florida**
1347 **Statutes, is reenacted to read:**

1348 420.504 Public corporation; creation, membership, terms,
1349 expenses.—

1350 (8) The corporation is a corporation primarily acting as

an instrumentality of the state, within the meaning of s.
768.28.

Section 33. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 455.221, Florida Statutes, is reenacted to read:

455.221 Legal and investigative services.—

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

Section 34. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (5) of section 455.32, Florida Statutes, is reenacted to read:

455.32 Management Privatization Act.—

(5) Any such corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 110 or chapter 112, except that the board of directors and the employees of the corporation are subject to the provisions of s. 112.061 and part III of chapter 112. The provisions of s. 768.28 apply to each such corporation,

1376 which is deemed to be a corporation primarily acting as an
1377 instrumentality of the state but which is not an agency within
1378 the meaning of s. 20.03(1).

1379 **Section 35. For the purpose of incorporating the amendment**
1380 **made by this act to section 768.28, Florida Statutes, in a**
1381 **reference thereto, subsection (3) of section 456.009, Florida**
1382 **Statutes, is reenacted to read:**

1383 456.009 Legal and investigative services.—

1384 (3) Any person retained by the department under contract
1385 to review materials, make site visits, or provide expert
1386 testimony regarding any complaint or application filed with the
1387 department relating to a profession under the jurisdiction of
1388 the department shall be considered an agent of the department in
1389 determining the state insurance coverage and sovereign immunity
1390 protection applicability of ss. 284.31 and 768.28.

1391 **Section 36. For the purpose of incorporating the amendment**
1392 **made by this act to section 768.28, Florida Statutes, in a**
1393 **reference thereto, paragraph (a) of subsection (15) of section**
1394 **456.076, Florida Statutes, is reenacted to read:**

1395 456.076 Impaired practitioner programs.—

1396 (15) (a) A consultant retained pursuant to this section and
1397 a consultant's directors, officers, employees, or agents shall
1398 be considered agents of the department for purposes of s. 768.28
1399 while acting within the scope of the consultant's duties under
1400 the contract with the department.

1401 **Section 37. For the purpose of incorporating the amendment**
1402 **made by this act to section 768.28, Florida Statutes, in a**
1403 **reference thereto, subsection (3) of section 471.038, Florida**
1404 **Statutes, is reenacted to read:**

1405 471.038 Florida Engineers Management Corporation.—

1406 (3) The Florida Engineers Management Corporation is
1407 created to provide administrative, investigative, and
1408 prosecutorial services to the board in accordance with the
1409 provisions of chapter 455 and this chapter. The management
1410 corporation may hire staff as necessary to carry out its
1411 functions. Such staff are not public employees for the purposes
1412 of chapter 110 or chapter 112, except that the board of
1413 directors and the staff are subject to the provisions of s.
1414 112.061. The provisions of s. 768.28 apply to the management
1415 corporation, which is deemed to be a corporation primarily
1416 acting as an instrumentality of the state, but which is not an
1417 agency within the meaning of s. 20.03(1). The management
1418 corporation shall:

1419 (a) Be a Florida corporation not for profit, incorporated
1420 under the provisions of chapter 617.

1421 (b) Provide administrative, investigative, and
1422 prosecutorial services to the board in accordance with the
1423 provisions of chapter 455, this chapter, and the contract
1424 required by this section.

1425 (c) Receive, hold, and administer property and make only

1426 prudent expenditures directly related to the responsibilities of
1427 the board, and in accordance with the contract required by this
1428 section.

1429 (d) Be approved by the board, and the department, to
1430 operate for the benefit of the board and in the best interest of
1431 the state.

1432 (e) Operate under a fiscal year that begins on July 1 of
1433 each year and ends on June 30 of the following year.

1434 (f) Have a seven-member board of directors, five of whom
1435 are to be appointed by the board and must be registrants
1436 regulated by the board and two of whom are to be appointed by
1437 the secretary and must be laypersons not regulated by the board.
1438 All appointments shall be for 4-year terms. No member shall
1439 serve more than two consecutive terms. Failure to attend three
1440 consecutive meetings shall be deemed a resignation from the
1441 board, and the vacancy shall be filled by a new appointment.

1442 (g) Select its officers in accordance with its bylaws. The
1443 members of the board of directors who were appointed by the
1444 board may be removed by the board.

1445 (h) Select the president of the management corporation,
1446 who shall also serve as executive director to the board, subject
1447 to approval of the board.

1448 (i) Use a portion of the interest derived from the
1449 management corporation account to offset the costs associated
1450 with the use of credit cards for payment of fees by applicants

1451 or licensees.

1452 (j) Operate under a written contract with the department
1453 which is approved by the board. The contract must provide for,
1454 but is not limited to:

1455 1. Submission by the management corporation of an annual
1456 budget that complies with board rules for approval by the board
1457 and the department.

1458 2. Annual certification by the board and the department
1459 that the management corporation is complying with the terms of
1460 the contract in a manner consistent with the goals and purposes
1461 of the board and in the best interest of the state. This
1462 certification must be reported in the board's minutes. The
1463 contract must also provide for methods and mechanisms to resolve
1464 any situation in which the certification process determines
1465 noncompliance.

1466 3. Funding of the management corporation through
1467 appropriations allocated to the regulation of professional
1468 engineers from the Professional Regulation Trust Fund.

1469 4. The reversion to the board, or the state if the board
1470 ceases to exist, of moneys, records, data, and property held in
1471 trust by the management corporation for the benefit of the
1472 board, if the management corporation is no longer approved to
1473 operate for the board or the board ceases to exist. All records
1474 and data in a computerized database shall be returned to the
1475 department in a form that is compatible with the computerized

1476 database of the department.

1477 5. The securing and maintaining by the management
1478 corporation, during the term of the contract and for all acts
1479 performed during the term of the contract, of all liability
1480 insurance coverages in an amount to be approved by the board to
1481 defend, indemnify, and hold harmless the management corporation
1482 and its officers and employees, the department and its
1483 employees, and the state against all claims arising from state
1484 and federal laws. Such insurance coverage must be with insurers
1485 qualified and doing business in the state. The management
1486 corporation must provide proof of insurance to the department.
1487 The department and its employees and the state are exempt from
1488 and are not liable for any sum of money which represents a
1489 deductible, which sums shall be the sole responsibility of the
1490 management corporation. Violation of this subparagraph shall be
1491 grounds for terminating the contract.

1492 6. Payment by the management corporation, out of its
1493 allocated budget, to the department of all costs of
1494 representation by the board counsel, including salary and
1495 benefits, travel, and any other compensation traditionally paid
1496 by the department to other board counsel.

1497 7. Payment by the management corporation, out of its
1498 allocated budget, to the department of all costs incurred by the
1499 management corporation or the board for the Division of
1500 Administrative Hearings of the Department of Management Services

1501 and any other cost for utilization of these state services.

1502 8. Payment by the management corporation, out of its
1503 allocated budget, to the department of reasonable costs
1504 associated with the contract monitor.

1505 (k) Provide for an annual financial audit of its financial
1506 accounts and records by an independent certified public
1507 accountant. The annual audit report shall include a management
1508 letter in accordance with s. 11.45 and a detailed supplemental
1509 schedule of expenditures for each expenditure category. The
1510 annual audit report must be submitted to the board, the
1511 department, and the Auditor General for review.

1512 (l) Provide for persons not employed by the corporation
1513 who are charged with the responsibility of receiving and
1514 depositing fee and fine revenues to have a faithful performance
1515 bond in such an amount and according to such terms as shall be
1516 determined in the contract.

1517 (m) Submit to the secretary, the board, and the
1518 Legislature, on or before October 1 of each year, a report on
1519 the status of the corporation which includes, but is not limited
1520 to, information concerning the programs and funds that have been
1521 transferred to the corporation. The report must include: the
1522 number of license applications received; the number approved and
1523 denied and the number of licenses issued; the number of
1524 examinations administered and the number of applicants who
1525 passed or failed the examination; the number of complaints

received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

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

Section 38. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (11) of section 472.006, Florida Statutes, is reenacted to read:

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

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

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

testimony regarding any complaint or application filed with the department relating to the practice of surveying and mapping shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

Section 39. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (7) of section 497.167, Florida Statutes, is reenacted to read:

497.167 Administrative matters.—

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

Section 40. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (2) of section 513.118, Florida Statutes, is reenacted to read:

513.118 Conduct on premises; refusal of service.—

(2) The operator of a recreational vehicle park may request that a transient guest or visitor who violates subsection (1) leave the premises immediately. A person who

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

Section 41. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 548.046, Florida Statutes, is reenacted to read:

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

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

physician shall be considered an agent of the commission in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

Section 42. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (8) of section 556.106, Florida Statutes, is reenacted to read:

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

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

Section 43. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (e) of subsection (4) of section 589.19, Florida Statutes, is reenacted to read:

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

(4)

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

2. A private landowner who consents to the designation and use of land as part of the Operation Outdoor Freedom Program

without compensation shall be considered a volunteer, as defined in s. 110.501, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

3. This subsection does not:

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

b. Create or increase the liability of any person.

Section 44. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsections (3) and (4) of section 627.7491, Florida Statutes, are reenacted to read:

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

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

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

Section 45. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section

723.0611, Florida Statutes, is reenacted to read:

723.0611 Florida Mobile Home Relocation Corporation.—

(2)

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

Section 46. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (5) of section 760.11, Florida Statutes, is reenacted to read:

760.11 Administrative and civil remedies; construction.—

(5) In any civil action brought under this section, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The provisions of ss. 768.72 and 768.73 do not apply to this section. The judgment for the total amount of punitive damages awarded under this section to an aggrieved person shall not exceed \$100,000. In any action or

proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. The right to trial by jury is preserved in any such private right of action in which the aggrieved person is seeking compensatory or punitive damages, and any party may demand a trial by jury. The commission's determination of reasonable cause is not admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private right of action. A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission. The commencement of such action shall divest the commission of jurisdiction of the complaint, except that the commission may intervene in the civil action as a matter of right. Notwithstanding the above, the state and its agencies and subdivisions shall not be liable for punitive damages. The total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in s. 768.28(5).

Section 47. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (4) of section 766.1115, Florida

Statutes, is reenacted to read:

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

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

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

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

1726 (c) Adverse incidents and information on treatment
1727 outcomes must be reported by any health care provider to the
1728 governmental contractor if the incidents and information pertain
1729 to a patient treated under the contract. The health care
1730 provider shall submit the reports required by s. 395.0197. If an
1731 incident involves a professional licensed by the Department of
1732 Health or a facility licensed by the Agency for Health Care
1733 Administration, the governmental contractor shall submit such
1734 incident reports to the appropriate department or agency, which
1735 shall review each incident and determine whether it involves
1736 conduct by the licensee that is subject to disciplinary action.
1737 All patient medical records and any identifying information
1738 contained in adverse incident reports and treatment outcomes
1739 which are obtained by governmental entities under this paragraph
1740 are confidential and exempt from the provisions of s. 119.07(1)
1741 and s. 24(a), Art. I of the State Constitution.

1742 (d) Patient selection and initial referral must be made by
1743 the governmental contractor or the provider. Patients may not be
1744 transferred to the provider based on a violation of the
1745 antidumping provisions of the Omnibus Budget Reconciliation Act
1746 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
1747 chapter 395.

1748 (e) If emergency care is required, the patient need not be
1749 referred before receiving treatment, but must be referred within
1750 48 hours after treatment is commenced or within 48 hours after

the patient has the mental capacity to consent to treatment,
whichever occurs later.

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

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

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

**Section 48. For the purpose of incorporating the amendment
made by this act to section 768.28, Florida Statutes, in a
reference thereto, subsection (2) of section 766.112, Florida
Statutes, is reenacted to read:**

766.112 Comparative fault.—

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

1776 university, the court shall enter judgment against the board of
1777 trustees on the basis of the board's percentage of fault and not
1778 on the basis of the doctrine of joint and several liability. The
1779 sole remedy available to a claimant to collect a judgment or
1780 settlement against a board of trustees, subject to the
1781 provisions of this subsection, shall be pursuant to s. 768.28.

1782 **Section 49. For the purpose of incorporating the amendment**
1783 **made by this act to section 768.28, Florida Statutes, in a**
1784 **reference thereto, subsection (3) of section 768.1355, Florida**
1785 **Statutes, is reenacted to read:**

1786 768.1355 Florida Volunteer Protection Act.—

1787 (3) Members of elected or appointed boards, councils, and
1788 commissions of the state, counties, municipalities, authorities,
1789 and special districts shall incur no civil liability and shall
1790 have immunity from suit as provided in s. 768.28 for acts or
1791 omissions by members relating to members' conduct of their
1792 official duties. It is the intent of the Legislature to
1793 encourage our best and brightest people to serve on elected and
1794 appointed boards, councils, and commissions.

1795 **Section 50. For the purpose of incorporating the amendment**
1796 **made by this act to section 768.28, Florida Statutes, in a**
1797 **reference thereto, subsection (7) of section 768.1382, Florida**
1798 **Statutes, is reenacted to read:**

1799 768.1382 Streetlights, security lights, and other similar
1800 illumination; limitation on liability.—

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

Section 51. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (4) of section 768.295, Florida Statutes, is reenacted to read:

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

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

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

Section 52. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 946.5026, Florida Statutes, is reenacted to read:

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

Section 53. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 946.514, Florida Statutes, is reenacted to read:

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

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

Section 54. For the purpose of incorporating the amendment

made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (8) of section 961.06, Florida Statutes, is reenacted to read:

961.06 Compensation for wrongful incarceration.—

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

Section 55. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 984.09, Florida Statutes, is reenacted to read:

984.09 Punishment for contempt of court; alternative sanctions.—

(3) **ALTERNATIVE SANCTIONS.**—Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the circuit alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community service or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity

that has entered into a contract with the department to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the labor of children and limited immunity in accordance with s. 768.28(11).

Section 56. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (h) of subsection (12) of section 1002.33, Florida Statutes, is reenacted to read:

1002.33 Charter schools.—

(12) EMPLOYEES OF CHARTER SCHOOLS.—

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

Section 57. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (6) of section 1002.333, Florida Statutes, is reenacted to read:

1002.333 Persistently low-performing schools.—

(6) STATUTORY AUTHORITY.—

(b) For the purposes of tort liability, the hope operator, the school of hope, and its employees or agents shall be governed by s. 768.28. The sponsor shall not be liable for civil damages under state law for the employment actions or personal

injury, property damage, or death resulting from an act or omission of a hope operator, the school of hope, or its employees or agents. This paragraph does not include any for-profit entity contracted by the charter school or its governing body.

Section 58. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (17) of section 1002.34, Florida Statutes, is reenacted to read:

1002.34 Charter technical career centers.—

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

Section 59. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (c) of subsection (3) of section 1002.351, Florida Statutes, is reenacted to read:

1002.351 The Florida School for Competitive Academics.—

(3) BOARD OF TRUSTEES.—

(c) The board of trustees is a public agency entitled to sovereign immunity pursuant to s. 768.28, and board members are public officers who bear fiduciary responsibility for the Florida School for Competitive Academics.

Section 60. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a

reference thereto, subsection (2) of section 1002.37, Florida Statutes, is reenacted to read:

1002.37 The Florida Virtual School.—

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

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

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

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

(c) The board of trustees shall aggressively seek avenues to generate revenue to support its future endeavors, and shall enter into agreements with distance learning providers. The

board of trustees may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or interests thereunder or therein shall vest in the state, with the board of trustees having full right of use and full right to retain the revenues derived therefrom. Any funds realized from patents, copyrights, trademarks, or licenses shall be considered internal funds as provided in s. 1011.07. Such funds shall be used to support the school's marketing and research and development activities in order to improve courseware and services to its students.

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

(e) The Florida Virtual School may accrue supplemental revenue from supplemental support organizations, which include, but are not limited to, alumni associations, foundations, parent-teacher associations, and booster associations. The governing body of each supplemental support organization shall recommend the expenditure of moneys collected by the organization for the benefit of the school. Such expenditures shall be contingent upon the review of the executive director.

1976 The executive director may override any proposed expenditure of
1977 the organization that would violate Florida law or breach sound
1978 educational management.

1979 (f) In accordance with law and rules of the State Board of
1980 Education, the board of trustees shall administer and maintain
1981 personnel programs for all employees of the board of trustees
1982 and the Florida Virtual School. The board of trustees may adopt
1983 rules, policies, and procedures related to the appointment,
1984 employment, and removal of personnel.

1985 1. The board of trustees shall determine the compensation,
1986 including salaries and fringe benefits, and other conditions of
1987 employment for such personnel.

1988 2. The board of trustees may establish and maintain a
1989 personnel loan or exchange program by which persons employed by
1990 the board of trustees for the Florida Virtual School as academic
1991 administrative and instructional staff may be loaned to, or
1992 exchanged with persons employed in like capacities by, public
1993 agencies either within or without this state, or by private
1994 industry. With respect to public agency employees, the program
1995 authorized by this subparagraph shall be consistent with the
1996 requirements of part II of chapter 112. The salary and benefits
1997 of board of trustees personnel participating in the loan or
1998 exchange program shall be continued during the period of time
1999 they participate in a loan or exchange program, and such
2000 personnel shall be deemed to have no break in creditable or

2001 continuous service or employment during such time. The salary
2002 and benefits of persons participating in the personnel loan or
2003 exchange program who are employed by public agencies or private
2004 industry shall be paid by the originating employers of those
2005 participants, and such personnel shall be deemed to have no
2006 break in creditable or continuous service or employment during
2007 such time.

2008 3. The employment of all Florida Virtual School academic
2009 administrative and instructional personnel shall be subject to
2010 rejection for cause by the board of trustees, and shall be
2011 subject to policies of the board of trustees relative to
2012 certification, tenure, leaves of absence, sabbaticals,
2013 remuneration, and such other conditions of employment as the
2014 board of trustees deems necessary and proper, not inconsistent
2015 with law.

2016 4. Each person employed by the board of trustees in an
2017 academic administrative or instructional capacity with the
2018 Florida Virtual School shall be entitled to a contract as
2019 provided by rules of the board of trustees.

2020 5. All employees except temporary, seasonal, and student
2021 employees may be state employees for the purpose of being
2022 eligible to participate in the Florida Retirement System and
2023 receive benefits. The classification and pay plan, including
2024 terminal leave and other benefits, and any amendments thereto,
2025 shall be subject to review and approval by the Department of

2026 Management Services and the Executive Office of the Governor
2027 prior to adoption.

2028 (g) The board of trustees shall establish priorities for
2029 admission of students in accordance with paragraph (1)(b).

2030 (h) The board of trustees shall establish and distribute
2031 to all school districts and high schools in the state procedures
2032 for enrollment of students in courses offered by the Florida
2033 Virtual School.

2034 (i) The board of trustees shall establish criteria
2035 defining the elements of an approved franchise. The board of
2036 trustees may enter into franchise agreements with Florida
2037 district school boards and may establish the terms and
2038 conditions governing such agreements. The board of trustees
2039 shall establish the performance and accountability measures and
2040 report the performance of each school district franchise to the
2041 Commissioner of Education.

2042 (j) The board of trustees shall submit to the State Board
2043 of Education both forecasted and actual enrollments and credit
2044 completions for the Florida Virtual School, according to
2045 procedures established by the State Board of Education. At a
2046 minimum, such procedures must include the number of public,
2047 private, and home education students served by program and by
2048 county of residence.

2049 (k) The board of trustees shall provide for the content
2050 and custody of student and employee personnel records. Student

records shall be subject to the provisions of s. 1002.22.
Employee records shall be subject to the provisions of s.
1012.31.

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

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

2076 **Section 61. For the purpose of incorporating the amendment**
2077 **made by this act to section 768.28, Florida Statutes, in a**
2078 **reference thereto, paragraph (1) of subsection (3) of section**
2079 **1002.55, Florida Statutes, is reenacted to read:**

2080 1002.55 School-year prekindergarten program delivered by
2081 private prekindergarten providers.—

2082 (3) To be eligible to deliver the prekindergarten program,
2083 a private prekindergarten provider must meet each of the
2084 following requirements:

2085 (1) Notwithstanding paragraph (j), for a private
2086 prekindergarten provider that is a state agency or a subdivision
2087 thereof, as defined in s. 768.28(2), the provider must agree to
2088 notify the coalition of any additional liability coverage
2089 maintained by the provider in addition to that otherwise
2090 established under s. 768.28. The provider shall indemnify the
2091 coalition to the extent permitted by s. 768.28. Notwithstanding
2092 paragraph (j), for a child development program that is
2093 accredited by a national accrediting body and operates on a
2094 military installation that is certified by the United States
2095 Department of Defense, the provider may demonstrate liability
2096 coverage by affirming that it is subject to the Federal Tort
2097 Claims Act, 28 U.S.C. ss. 2671 et seq.

2098 **Section 62. For the purpose of incorporating the amendment**
2099 **made by this act to section 768.28, Florida Statutes, in a**
2100 **reference thereto, subsection (10) of section 1002.83, Florida**

Statutes, is reenacted to read:

1002.83 Early learning coalitions.—

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

Section 63. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (p) of subsection (1) of section 1002.88, Florida Statutes, is reenacted to read:

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

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

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

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

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

2126 **Section 64. For the purpose of incorporating the amendment**
2127 **made by this act to section 768.28, Florida Statutes, in a**
2128 **reference thereto, subsection (1) of section 1006.24, Florida**
2129 **Statutes, is reenacted to read:**

2130 1006.24 Tort liability; liability insurance.—

2131 (1) Each district school board shall be liable for tort
2132 claims arising out of any incident or occurrence involving a
2133 school bus or other motor vehicle owned, maintained, operated,
2134 or used by the district school board to transport persons, to
2135 the same extent and in the same manner as the state or any of
2136 its agencies or subdivisions is liable for tort claims under s.
2137 768.28, except that the total liability to persons being
2138 transported for all claims or judgments of such persons arising
2139 out of the same incident or occurrence shall not exceed an
2140 amount equal to \$5,000 multiplied by the rated seating capacity
2141 of the school bus or other vehicle, as determined by rules of
2142 the State Board of Education, or \$100,000, whichever is greater.
2143 The provisions of s. 768.28 apply to all claims or actions
2144 brought against district school boards, as authorized in this
2145 subsection.

2146 **Section 65. For the purpose of incorporating the amendment**
2147 **made by this act to section 768.28, Florida Statutes, in a**
2148 **reference thereto, paragraph (b) of subsection (2) of section**
2149 **1006.261, Florida Statutes, is reenacted to read:**

2150 1006.261 Use of school buses for public purposes.—

2151 (2)
2152 (b) For purposes of liability for negligence, state
2153 agencies or subdivisions as defined in s. 768.28(2) shall be
2154 covered by s. 768.28. Every other corporation or organization
2155 shall provide liability insurance coverage in the minimum
2156 amounts of \$100,000 on any claim or judgment and \$200,000 on all
2157 claims and judgments arising from the same incident or
2158 occurrence.

2159 **Section 66.** This act shall take effect October 1, 2026.