

By Senator Rader

29-01158-19

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1 A bill to be entitled
2 An act relating to the limited waiver of sovereign
3 immunity; amending s. 768.28, F.S.; modifying the
4 limitations of liability for tort claims or judgments;
5 providing applicability; providing an effective date.
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7 Be It Enacted by the Legislature of the State of Florida:
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9 Section 1. Subsection (5) of section 768.28, Florida
10 Statutes, is amended to read:

11 768.28 Waiver of sovereign immunity in tort actions;
12 recovery limits; limitation on attorney fees; statute of
13 limitations; exclusions; indemnification; risk management
14 programs.—

15 (5) The state and its agencies and subdivisions shall be
16 liable for tort claims in the same manner and to the same extent
17 as a private individual under like circumstances, but liability
18 shall not include punitive damages or interest for the period
19 before judgment. Neither the state nor its agencies or
20 subdivisions shall be liable to pay a claim or a judgment by any
21 one person which exceeds the sum of \$300,000 ~~\$200,000~~ or any
22 claim or judgment, or portions thereof, which, when totaled with
23 all other claims or judgments paid by the state or its agencies
24 or subdivisions arising out of the same incident or occurrence,
25 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or
26 judgments may be claimed and rendered in excess of these amounts
27 and may be settled and paid pursuant to this act up to \$300,000
28 ~~\$200,000~~ or \$500,000 ~~\$300,000~~, as the case may be; and that
29 portion of the judgment that exceeds these amounts may be

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30 reported to the Legislature, but may be paid in part or in whole
31 only by further act of the Legislature. Notwithstanding the
32 limited waiver of sovereign immunity provided herein, the state
33 or an agency or subdivision thereof may agree, within the limits
34 of insurance coverage provided, to settle a claim made or a
35 judgment rendered against it without further action by the
36 Legislature, but the state or agency or subdivision thereof
37 shall not be deemed to have waived any defense of sovereign
38 immunity or to have increased the limits of its liability as a
39 result of its obtaining insurance coverage for tortious acts in
40 excess of the \$300,000 ~~\$200,000~~ or \$500,000 ~~\$300,000~~ waiver
41 provided above. The limitations of liability set forth in this
42 subsection shall apply to the state and its agencies and
43 subdivisions whether or not the state or its agencies or
44 subdivisions possessed sovereign immunity before July 1, 1974.

45 Section 2. This act applies to claims arising on or after
46 October 1, 2020.

47 Section 3. This act shall take effect October 1, 2020.