

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Health Regulation

CS/SB 1676 — Sovereign Immunity

by Judiciary Committee and Senators Thrasher and Oelrich

The bill establishes legislative findings that nonprofit independent private colleges and universities located and chartered in Florida, which own or operate medical schools, and which permit their employees or agents to provide patient services in teaching hospitals pursuant to an affiliation agreement or other contract, should be afforded sovereign immunity protections under s. 768.28, F.S. Additionally, the Legislature declares that there is an overwhelming public necessity for extending the state's sovereign immunity to such entities and that there is no alternative method of meeting such public necessity.

Under the bill, any nonprofit independent college or university located and chartered in Florida, which owns or operates an accredited medical school, or any of its employees or agents, and which has agreed by affiliation agreement or other contract to provide, or to permit its employees or agents to provide, patient services as agents of a teaching hospital, is considered an agent of the teaching hospital while acting within the scope of and pursuant to guidelines established in the contract.

The contract must provide for the indemnification of the teaching hospital, up to certain limits, by the agent for any liability incurred which was caused by the negligence of the college or university or its employees or agents. The contract must also provide that those limited portions of the college, university, or medical school which are directly providing services pursuant to the contract and which are considered an agent of the teaching hospital, are deemed to be acting on behalf of a public agency for purposes of public records laws.

Notice must be provided to each patient, or the patient's legal representative, that the exclusive remedy for injury or damage suffered as the result of any act or omission of the teaching hospital, the college or university, or the employees or agents of the college or university, while acting within the scope of duties pursuant to the contract with the teaching hospital, is by commencement of an action under the state's limited waiver of sovereign immunity pursuant to s. 768.28, F.S. This notice requirement may be met by posting the notice in a place conspicuous to all persons.

The bill does not designate any employee providing contracted patient services in a teaching hospital as an employee or agent of the state for purposes of workers' compensation insurance.

If approved by the Governor, these provisions take effect upon becoming law and apply to all claims accruing on or after that date.

Vote: Senate 38-0; House 109-8