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INTRODUCTION

This manual is designed to assist in navigating through the claim bill process. Senate and House staff are available to answer questions about the claim bill process. Senate staff can be reached at 850-487-5229 and House staff can be reached at 850-717-4850.

Suggested Procedures for Legislators

✓ Advise the claimant or attorney of the sequence of events in the filing of a claim bill.

✓ Senate Rule 4.81(2) requires a current serving Senator to file any claim bill by the first Friday in August; and a newly elected Senator to file any claim bill by the sixth Friday after election. A House bill must be filed by noon of the first day of the regular session. See House Rule 5.2(a).

✓ A House claim bill that does not have a Senate companion bill timely filed in the Senate will not be considered by the Senate except as provided in Senate Rule 4.81(2) or if the Senate Rules are waived.

✓ Check with the staff of either chamber to determine whether the claim was filed in a prior year and, if so, obtain a copy of any public reports.

✓ Ask the claimant to provide an information packet containing the major documentation and a summary of the highlights of the claim. Submit the information to your chamber’s bill drafting office for preparation of the claim bill.

✓ Provide contact information for counsel of the claimant and respondent to the special master. Each chamber will have its own special master assigned to review and report on specific claim bills; however, to minimize travel and avoid duplicative proceedings, the special masters usually hold a joint hearing for each claim bill. Legislators are invited to attend the special masters’ hearing; however, attendance by the introducer of a claim bill is not required.

✓ Ensure that all submissions have been timely provided to the special masters so that the claim is ready to be heard by the special masters when they schedule the hearing.

✓ Ensure that the claimant will be present at the hearing, as required.

✓ Follow the bill through the regular committee process. In the Senate, the introducer, or the first- or second-named co-introducer, of a bill may present the bill at the meeting of the committee before which the bill is noticed. With a prior written request of the introducer to the committee chair, a member of the committee may present the bill. See Senate Rule 2.11(1). The special master will generally be available at committee meetings to answer questions. See Senate Rule 4.81(3) and House Rule 5.6(a).
I. DEFINITIONS AND PROCESS

A. What is a Claim Bill?
Generally, a claim bill, sometimes called a relief act, is a bill that compensates a particular individual or entity for injuries or losses occasioned by the negligence or error of a public officer or agency. It is a means by which an injured party may recover damages even though the public officer or agency involved may be immune from suit. Majority approval in both chambers of the Legislature is required for passage.

B. What is Sovereign Immunity?
Sovereign immunity is a doctrine that prohibits suits against the government without the government’s consent. The State Constitution addresses sovereign immunity in Article X, Section 13, which allows the state to waive its immunity through general law. Sovereign immunity extends to all subdivisions of the state, including counties, municipalities, local constitutional officers, and school boards.

In 1973, the Florida Legislature enacted section 768.28, Florida Statutes, which allows individuals to sue the state government, subdivisions of the state, counties, municipalities and political subdivisions under circumstances where a private person “would be liable to the claimant, in accordance with the general laws of the state.”

C. Is there a Statute of Limitations?
Pursuant to section 11.065, Florida Statutes, no claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Further, all relief acts of the Legislature must be for payment in full. No further claims for relief may be submitted to the Legislature for a previously compensated claim.

D. Are there Monetary Limits on Recovery?
Section 768.28(5), Florida Statutes, imposes a $200,000 limit per person and a $300,000 limit per incident on the collectability of any tort judgment based on the government’s liability. These limits do not preclude plaintiffs from obtaining judgments in excess of the statutory cap; however, plaintiffs cannot force the government to pay damages that exceed the recovery cap. A claimant must petition the Legislature, in accordance with its rules, to seek an appropriation to pay a judgment against the state or state agency, which requires passage of a claim bill. See sections 11.066 and 768.28(5), Florida Statutes. For recovery of an excess judgment or equitable claim against a subdivision of the state, the Legislature may direct such payment through passage of a claim bill. See section 768.28(5), Florida Statutes.

E. Must All Available Remedies be Exhausted?
Senate Rule 4.81(6) and House Rule 5.6(c) provide that the Legislature will not process a contested claim bill until the claimant has exhausted all available administrative and judicial remedies. However, both chambers may consider a bill in which the parties have executed a

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1 Section 1, ch. 2010-26, Laws of Florida, amended s. 768.28(5), Florida Statutes, effective October 1, 2011, applicable to claims arising on or after that date, to the current levels.
written settlement agreement. Moreover, Senate Rule 4.81(6) provides another exception for a claim bill regarding wrongful incarceration.

**F. General or Local?**

1. **General Bills**
   
   A general law is an act intended to have statewide application. For claim bill purposes, if the respondent of the claim is a state agency, which would require an appropriation from the state’s general revenue or from an executive agency’s budget, then the claim is a general bill. The “relating to” clause for a general claim bill names the claimant or claimants seeking relief under the act, as in:
   
   “An act for the relief of John Smith and Mary Smith.”

2. **Local Bills and Special Requirements**

   A local or special law is any legislative act that applies to an area or entity less than the total area or population of the state; and contains subject matter entitling those to whom it is applicable to the publication or referendum required by Article III, Section 10, of the State Constitution. Generally, if the respondent is a county, municipality, school board, district, local constitutional officer, or other subdivision of the state, then the claim is a local bill.

   Article III, Section 10, of the State Constitution, prohibits passage of a special law unless notice of intention to seek enactment thereof has been published in the manner provided by general law.

   Sections 11.02, 11.021, and 11.03, Florida Statutes, provide the requirements for publication of the required notice. The notice must contain the name of the claimant, the nature of the injury or loss, and the amount of the claim. A sample notice is in the Examples section of this manual.

   Section 11.03, Florida Statutes, provides a general form for proof of publication of notice. Additionally, Senate Rule 3.3 and House Rule 5.5(c) require that all local bills be accompanied by an affidavit of proper advertisement. The House Rule requires the affidavit to be securely attached to the original bill ahead of its first page. With regard to the proof of publication, the Senate Rule requires the proof of publication to be securely attached to the original copy of the bill, when introduced, and the words “Proof of Publication Attached” clearly typed or stamped on the Senate side of the bill jacket.

   There are two important characteristics distinguishing a general claim bill from a local claim bill: the “relating to” clause in the title of the bill and the appropriation sections that follow the enacting clause.

   The “relating to” clause for a general claim bill should always name the claimant or claimants seeking relief under the act, as in:
   
   “An act for the relief of John Smith and Mary Smith.”
The “relating to” clause in the title of a local claim bill should always cite the name of the county or the local governmental entity from which compensation is being sought. In other words, the “relating to” clause of a local relief act always indicates that the bill is local in nature, as in the following examples:

“An act for the relief of James Simpson by Seminole County”;
“An act for the relief of Danielle Simms and Corey Simms by the Palm Beach County Sheriff’s Department”; and
“An act for the relief of Hunter Wright by the West Volusia Hospital District.”

G. What are the Filing Deadlines?
Senate Rule 4.81(2) requires a current serving Senator to file any claim bill by the first Friday in August; and a newly elected Senator to file any claim bill by the sixth Friday after election. House Rule 5.2 requires that general and local bills be filed with the House Clerk by noon of the first day of the regular session.

H. Is there a Limit on the Number of Bills a Legislator Can File?
Senate Rules do not limit the number of bills a Senator may file. Although House Rule 5.3 prohibits members from filing more than six bills for a regular session, claim bills, whether general or local, do not count toward a member’s six bills. See House Rule 5.3(b)(10).

I. Can a Claimant Collect in Excess of the $200,000/$300,000 Limit Without Filing a Claim Bill?
Section 768.28(5), Florida Statutes, provides that the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to pay a claim made or an excess judgment rendered against it without further action by the Legislature.

J. Are there any Limitations or Restrictions on Fees?
Section 768.28(8), Florida Statutes, provides that no attorney may charge, demand, receive, or collect, for services rendered, fees in excess of 25 percent of any judgment or settlement.

Fees contingent upon the outcome of any specific legislative action are generally prohibited by section 11.047(2), Florida Statutes, except in the case of claim bills. It is considered a conflict of interest for a legislator to file a claim bill if that legislator, or the legislator’s law partner, would receive a fee for services.
II. CITATIONS: STATE CONSTITUTION, FLORIDA STATUTES, LEGISLATIVE RULES

A. State Constitution
   Article III, Section 10, State Constitution—Special laws
   Article X, Section 13, State Constitution—Suits against the state

B. Florida Statutes
   Section 11.02, F.S.—Notice of special or local legislation or certain relief acts.
   Section 11.021, F.S.—Evidence of publication of notice.
   Section 11.03, F.S.—Proof of publication of notice.
   Section 11.047, F.S.—Contingency fees; prohibitions; penalties.
   Section 11.065, F.S.—Claims against state; limitations; notice.
   Section 11.066, F.S.—Suits seeking monetary damages against the state or its agencies; payment of judgments; appropriations required.
   Section 768.28, F.S.—Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

C. Senate Rules
   Senate Rule 3.3—Form of local bills
   Senate Rule 4.81—Claim bills

D. House Rules
   House Rule 5.2—Member Bill Filing Deadline
   House Rule 5.3—Limitation on Member Bills Filed
   House Rule 5.5—Local Bills
   House Rule 5.6—Claim Bills
III. DRAFTING A CLAIM BILL

A. Payment of Statutory Limits of Liability
Language of a proposed claim bill should include whether the governmental entity from whom relief is sought has paid the claimant or claimants the requisite amounts due under section 768.28, Florida Statutes. To avoid confusion, a clause stating whether the respondent has already paid the underlying amount should be included at or near the end of the “WHEREAS” clauses, followed by a statement of the remaining amount of the claim.

B. Apportionment of Claim Among Multiple Claimants
When there are multiple claimants, the claim bill should specify the exact amount each claimant is to receive.

Claim bills with multiple claimants may require a separate appropriation section for each claimant and are usually apportioned in direct proportion to the jury award or settlement amounts.

C. Medicaid Reimbursement Provisions
Where Medicaid reimbursement is owed, use the following language:

   Section __. The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date upon which this bill becomes a law.

Should this language be the subject of an amendment to a claim bill, an accompanying title proviso is needed. “Providing for repayment of Medicaid liens” would be a sufficient title proviso for such a section.

D. Award of Claim to Minors and Incompetents—Establishment of Trust or Guardianship
It is important to know whether the claimant is currently a ward and whether the claimant was a ward at the time of the incident that gave rise to the cause of action upon which the claim is based. If the claimant is a ward and will be a ward at the time of the prospective passage of the claim bill, it is essential to disclose whether a trust or guardianship account has been established for the ward.

E. Effective Dates
Effective dates of claim bills should adhere to the following guidelines:

- If the bill is a general bill and the Legislature intends funds for payment of a claim to be appropriated from the current fiscal year’s budget, use an effective date of no later than June 30.
- If the bill is a general bill and the Legislature intends funds for payment of a claim to be appropriated from the upcoming fiscal year’s budget, use an effective date later than July 15.
• If the bill is a local claim bill, the bill may have an effective date upon becoming a law, an effective date that is a specific date necessitated by the facts, or the effective date may coincide with the beginning of a local government’s fiscal year.
IV. THE SPECIAL MASTER PROCESS

A. **Referral to Special Masters**
   Once a claim bill is filed, the presiding officer of each chamber may refer the bill to a special master of that chamber, as well as to one or more committees. It is the duty of each special master to make specific and objective findings of fact and conclusions of law. The Senate and House special masters usually conduct a joint hearing to find facts and determine whether there is liability.

B. **Special Master Conference Call**
   After a claim bill is referred to the special masters, the special masters confer with the parties to schedule a conference call for purposes of reviewing the process, narrowing issues on which there may be agreement, setting discovery and evidentiary deadlines, if necessary; and scheduling a final hearing.

   *Ex parte* communication with the special masters, unless it involves a procedural matter, is prohibited.

C. **Prehearing Submissions**
   The claimant has the burden to prove the elements of negligence by a preponderance of the evidence and the elements of wrongful incarceration by clear and convincing evidence. Therefore, for negligence, the claimant is expected to provide the special masters with the necessary submissions (which may include transcripts, videos, PowerPoint presentations, records, and other materials) to support a finding of liability, and an affidavit explaining the breakdown of attorney fees and lobbying fees. For wrongful incarceration, the claimant is expected to provide the special masters with the necessary submissions to support a finding of actual innocence. The respondent is also expected to provide the special masters with relevant submissions.

   All submissions should be sent to the Senate and House special masters, individually, as well as to the opposing party. Senate Rule 4.81(7) requires electronic submission of all materials; the House Rules are silent on the matter. The parties may submit hard copies in addition to electronic submissions.

D. **Special Master Final Hearing**

1. **Location**
   The final hearing, which is open to the public, usually takes place at the Capitol Complex in Tallahassee, Florida. The special masters will inform the parties of the room location.

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2 Extraordinary discovery is usually unnecessary; however, the special masters may set deadlines for discovery, if needed.

3 If the underlying cause of action is a claim other than negligence or wrongful incarceration, the parties should provide materials and arguments pertaining to the underlying cause of action.
2. Format
The Senate and House special masters preside over the hearing, which is administrative in nature. In general, the hearing is limited to one day for contested matters and half a day for uncontested matters. Both parties have the opportunity to submit evidence, live testimony, and transcript testimony (whether deposition, trial, or otherwise). The parties are not expected to re-litigate the whole matter; however, the hearing is de novo, with the burden of proof on the claimant to show, by a preponderance of the evidence, a duty, breach, causation, and damages for negligence. For wrongful conviction, the burden of proof is on the claimant to show, by clear and convincing evidence, actual innocence. Special masters are not bound by jury verdicts or stipulations entered into by the parties, though they may consider such information. Even if there is a jury verdict or settlement agreement, there must be credible evidence in the record to support each of the legal elements of the cause of action.

The special masters administer oaths to witnesses, accept relevant documentary and tangible evidence properly offered, and record the hearing. The special master final hearing generally uses the following format:

a. Introduction of the special masters, claimant, respondent, and attorneys.

b. Opening statement by the claimant's attorney (should not exceed 10 minutes).

c. Opening statement by the respondent's attorney (should not exceed 10 minutes).

d. Presentation of claimant’s case in chief (e.g., negligence action: duty, breach, causation, damages). The claimant may introduce evidence, including the admission of transcript testimony, and call witnesses who are placed under oath. The respondent may cross-examine each witness, and the special masters may question each witness.

e. Presentation of the respondent’s case in chief. The respondent may introduce evidence, including the admission of transcript testimony, and call witnesses. The claimant may cross-examine each witness, and the special masters may question each witness.

f. If the claimant has not yet testified, the special masters will call the claimant to testify. The special masters may also ask questions directly of the attorneys representing the claimant and respondent.

g. If time permits, the special masters may permit each attorney to offer a brief closing not to exceed 10 minutes each.

3. Admission of Evidence
The final hearing is informal in nature and the special masters are not governed specifically by the Rules of Evidence. Thus, certain evidence may be allowed into the record even if it is hearsay or would otherwise be inadmissible at trial. Nonetheless, the special masters may
disregard or prohibit irrelevant evidence or evidence they consider unnecessary to the proceeding. Parties may object to evidence, and the special masters may take such objections into account when giving weight to the evidence; however, the special masters may refrain from making a formal ruling on an objection.

4. Attendance Requirements
The claimant must attend the final hearing, preferably in person, though the special masters may permit appearance by webcam or other means in certain situations. If the claimant appears remotely and is physically present in the United States, the claimant must arrange to have a person authorized under state law to be present in the same room to place the claimant under oath before testimony is given. Other witnesses are not required to be in attendance. The respondent’s presence is encouraged but not required.

E. Posthearing Procedures

1. Posthearing Submissions
The special masters may allow posthearing submissions and often allow up to 14 days after the final hearing for such submissions. The special masters may also request each party to submit proposed findings of fact and conclusions of law.

2. Special Masters’ Final Reports
Each special master usually drafts a separate report including findings of facts, conclusions of law, and a final recommendation of the claim. The special masters may provide differing recommendations. The Legislature is not bound by the special masters’ reports or recommendations. Usually, a special master report is not released until the claim bill is placed on the agenda for its first committee meeting.

3. Settlement
The parties may agree to settle a claim bill at some point during the claim bill process. The parties should immediately notify both special masters, in writing, of any settlement agreement.

4. Passage of the Claim Bill
After the special master final hearing, the claim bill is still subject to each chamber’s rules for passage. If the bill passes both houses of the Legislature, the Governor may sign it or allow it to become law without signature. It is the duty of the parties to track the claim bill through the legislative process.
V. EXAMPLES

A. Sample Funding Language

**LOCAL GOVERNMENT DEFENDANT**
(city, county, sheriff, school board, special districts)

The (identify the city, county, sheriff, school board, or special district) is authorized and directed to appropriate from funds not otherwise appropriated and to draw a warrant payable to _______ for the total amount of $_________ for injuries and damages sustained due to ___________________________ on ___________________________ (claimant).

**STATE AGENCY DEFENDANT**

*General Revenue Source*

There is appropriated from the General Revenue Fund to the Department of ______________ the sum of $_________ for the relief of ______________ for injuries and damages sustained.

The Chief Financial Officer is directed to draw a warrant in favor of ______________ in the sum of $_________ upon the funds of the Department of ______________ in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

*Trust Fund Source*

There is appropriated from the ______________ Trust Fund to the Department of ______________ the sum of $_________ for the relief of ______________ for injuries and damages sustained.

The Chief Financial Officer is directed to draw a warrant in favor of ______________ in the sum of $_________ upon the funds of the ______________ Trust Fund within the Department of ______________ in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

*Chapter 216 Transfer* (Requires Legislative Budget Commission approval for any General Revenue transfer and for any Trust Fund transfer over $1 million.)

Pursuant to the provisions of section 216.292, Florida Statutes, the Department of ______________ shall request transfer of existing spending authority in the amount of $_________ from existing operating categories of the Department of ______________ to a new category titled “Relief: ______________” in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

The Chief Financial Officer is directed to draw a warrant in favor of ______________ in the sum of $_________ upon the funds of the ______________ Trust Fund within the Department of ______________ within the category titled “Relief: ______________” in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.
B. Restrictions on Payment Language

**DISTRIBUTION TO GUARDIAN**

Payment to the guardian of the claimant, including a reversion to the source of payment upon the death of the claimant. (This language should be used if the claimant is a minor or is incompetent. It is intended to protect payments to claimants who are otherwise unable to protect their own interests).

“... payable to {guardian of claimant} as legal guardian of {claimant}, to be placed in the guardianship account of {claimant}, to compensate him/her for injuries and damages sustained as a result of the negligence of {respondent}. Upon the death of {claimant}, any balance of the {$amount} remaining in the guardianship account shall revert to the {payor}. It is the intent of the Legislature that no funds exceeding {$amount} appropriated herein subsequently be spent, or any obligation thereof incurred by the guardian, without prior order of the circuit court.”

**STRUCTURED PAYMENT—DIRECT**

Payment through a structured payout. (This language is typically used when the parties have agreed to a settlement requiring payment over a period of years while ensuring compensation to the claimant for a period of years.)

“...upon passage of this bill, the {payor} shall pay {claimant} {$amount}. One year from the first payment, the {payor} shall pay {claimant} {$amount}; and one year from the second payment, the {payor} shall pay {claimant} {$amount}, for a total of {$total amount}.”

**STRUCTURED PAYMENT—BY ANNUITY**

Payment through an annuity plan purchased by the claimant, including a reversion to the source of payment upon the death of the claimant. (This language is typically used when the claimant has suffered serious or permanent injuries and is likely to require substantial or long-term medical care. It is often used in conjunction with a special needs trust and/or payment to a guardian.)

“...payable to {guardian of claimant} to be placed in a special needs trust created for the exclusive use and benefit of {claimant}. After payment of statutory attorney fees and costs, the balance shall be used to purchase an appropriate structured financial plan, the proceeds of which shall be deposited into a special needs trust created for the exclusive use and benefit of {claimant}. It is the further intent of the Legislature that upon {claimant’s} death, any funds remaining in the special needs trust after payment of any outstanding Medicaid funds shall revert to the {payor}.”

**SPECIAL NEEDS TRUST**

Payment to a special needs trust, including a reversion to the source of payment upon the death of the claimant. (This language can be used in conjunction with payment to a guardian, and ensures that the award will adequately compensate the claimant’s future needs over a period of years while protecting the claimant’s eligibility for Medicaid services.)

“... payable to {guardians of claimant}, parents and legal guardians of {claimant}, to be placed in the special needs trust created for the exclusive use and benefit of {claimant}, a minor, to compensate {claimant} for injuries and damages sustained. Upon the death of {claimant}, the trust balance shall revert to the {payor}.”

*Add Medicaid reimbursement provision from page 6, if applicable.*
C. Senate Local Claim Bill

Florida Senate - 2017

By the Committee on Judiciary; and Senator Galvano

590-03421-17

A bill to be entitled

An act for the relief of Sean McNamee and his parents,
Todd McNamee and Jody McNamee, by the School Board of
Hillsborough County; providing for an appropriation to
the Sean R. McNamee Irrevocable Trust as compensation
for injuries and damages sustained by Sean McNamee as
a result of the negligence of employees of the School
Board of Hillsborough County; providing a limitation
on the payment of attorney fees; providing an
effective date.

WHEREOFAR, on October 9, 2013, Sean McNamee, a minor student
and member of the football team at Wharton High School,
participated in a warm-up session as part of organized team
activities at the start of football practice, and
WHEREOFAR, during a passing drill, Sean McNamee lost his
balance when he came into contact with another player, and while
falling to the ground, struck his head on a paint machine used
to line the practice field which had been improperly left in the
practice area, and
WHEREOFAR, Sean McNamee appeared confused, disoriented, and
not "symptom free" while in the training and locker rooms for
evaluation and treatment by the school’s athletic trainer, and
WHEREOFAR, the coaching and training staff did not properly
evaluate or assess Sean McNamee for a concussion or head injury,
left him unattended, did not call 911 or summon a physician or
ambulance, and did not immediately notify Sean’s parents of the
possibility that their son had sustained a brain injury, and
WHEREOFAR, the coaching and training staff responsible for

CODING: Words underlined are additions; words deleted are deletions.
the supervision and welfare of participating student athletes
should have known of the severity of the injury experienced by
Sean McNamee and were responsible for ensuring he received
appropriate and timely evaluation and attention, and

WHEREAS, after being left alone for an extended time, Sean
McNamee drove himself home, endangering himself and others, and
there his sister found him incoherent and acting strangely, and
she notified their father, Todd McNamee, who rushed him to the
emergency department at Florida Hospital Tampa, and

WHEREAS, physicians at Florida Hospital Tampa diagnosed
Sean McNamee with a traumatic brain injury from a depressed
temporal bone fracture with epidural and subdural hemorrhage
which required multiple brain surgeries, including emergency
decompression craniotomy, a 9-day induced coma, and
reconstruction with a titanium plate permanently inserted into
his fractured skull, and

WHEREAS, as a result of the traumatic brain injury and
delayed treatment, Sean McNamee suffers from permanent and
significant changes in his cognitive functions and from an
epileptic seizure disorder with breakthrough episodes, and

WHEREAS, Sean McNamee and his parents Todd McNamee and Jody
McNamee brought suit against the School Board of Hillsborough
County in the Circuit Court of the Thirteenth Judicial Circuit
in and for Hillsborough County, Case No 14-CA-009239, and the
parties entered into a court-ordered mediation on September 14,
2015, and

WHEREAS, the School Board of Hillsborough County approved a
settlement in the amount of $2 million, paid the statutory limit
of $300,000 under s. 768.28, Florida Statutes, and further
agreed to support the passage of this claim bill in the amount of $1.7 million for the unpaid portion of the settlement, NOW,
THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The School Board of Hillsborough County is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of $1.7 million payable to the Sean R. McNamee Irrevocable Trust as compensation for injuries and damages sustained as a result of the negligence of employees of the School Board of Hillsborough County.

Section 3. The amount paid by the School Board of Hillsborough County under s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries to Sean McNamee and damages to Todd McNamee and Jody McNamee. The total amount paid for attorney fees relating to this claim may not exceed 25 percent of the amount awarded under this act.

Section 4. This act shall take effect upon becoming a law.
D. House Local Claim Bill

F L O R I D A  H O U S E  O F  R E P R E S E N T A T I V E S

ENROLLED
C SHB 6515

2018 Legislature

1
2 An act for the relief of Cathleen Smiley by Brevard
3 County; providing for an appropriation to compensate
4 Cathleen Smiley for personal injuries and damages
5 sustained in an automobile accident caused by a
6 Brevard County employee; providing for payment by
7 Brevard County; providing a limitation on the payment
8 of fees and costs; providing an effective date.
9
10 WHEREAS, on June 18, 1998, Cathleen Smiley was the driver
11 of her vehicle when it was struck in the rear section by a van
12 driven by Howard Evarts which had been struck in the rear
13 section by a passenger bus owned by the Brevard County Board of
14 County Commissioners, and
15 WHEREAS, the Brevard County employee operating the bus was
16 traveling at approximately 45 miles per hour when the bus hit
17 the vehicle in which Mr. Evarts was traveling, causing Mr.
18 Evarts’ vehicle to hit Ms. Smiley’s vehicle, and
19 WHEREAS, the vehicles which Ms. Smiley and Mr. Evarts were
20 operating were appropriately stopped in their lane of travel
21 waiting to make a left turn, and
22 WHEREAS, at the time of the accident, Ms. Smiley was
23 without personal resources for medical insurance, other than
24 nominal personal injury protection, to adequately care for the
25 injuries she suffered as a result of the accident, and
WHEREAS, Ms. Smiley was knocked unconscious and suffered permanent injuries to the neck and left shoulder, and

WHEREAS, Christopher Prusinski, D.O., a neurologist in Brevard County, has opined that Ms. Smiley has reached maximum medical improvement and has an 8 percent whole body impairment due to the accident, and

WHEREAS, Dr. Prusinski also has opined that Ms. Smiley will require extensive future chiropractic care and treatment, and

WHEREAS, since the accident Ms. Smiley has required continuing care and treatment, and it is anticipated that she will require ongoing care in the future, including chiropractic treatment and periodic medical intervention and diagnostic testing, and

WHEREAS, on January 25, 2016, a consent judgment was entered after Ms. Smiley and Brevard County agreed to a stipulated judgment in the amount of $25,000 in case number 05-2000-CA-004291-XXXX-XX, and

WHEREAS, Ms. Smiley is one of five persons who filed lawsuits related to the accident, and

WHEREAS, at the time Ms. Smiley filed her lawsuit, on or about February 29, 2000, Brevard County had already paid property damage, medical, and injury claims totaling $101,410. Additionally, the county was evaluating two additional related personal injury lawsuits, and

WHEREAS, after these property damage, medical, and injury
claims were settled, only $98,590 remained to resolve the other
claims filed in connection with the accident, and

WHEREAS, Howard and Sharon Evarts and Alan Hammer filed
their lawsuits against Brevard County on June 24, 1999, and

WHEREAS, consent judgments were entered by the Circuit
Court for the 18th Judicial Circuit in Brevard County on
November 30, 2000, pursuant to an agreement entered into by
plaintiffs Evarts and Hammer and Brevard County for stipulated
judgments in case numbers 05-1999-CA-025509-XXXX-XX (Evarts) and
05-1999-CA025510-XXXX-XX (Hammer), each in the amount $125,000,
and

WHEREAS, Mr. Evarts and Mr. Hammer each received $49,295
out of the remaining balance of $98,590 of the county's $200,000
sovereign immunity limitation and, pursuant to their settlement
agreements with Brevard County, received the balance of their
judgments through the claim bill process as articulated in
Florida, respectively, and

WHEREAS, Brevard County and Ms. Smiley agreed that she
would pursue payment of the stipulated judgment due her in the
amount of $25,000 from the county through the claim bill
process, and

WHEREAS, Brevard County has agreed that it would not oppose
a claim bill being rendered against the county in this matter
and would support same, NOW, THEREFORE,
Be It Enacted by the Legislature of the State of Florida:

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. Brevard County is authorized and directed to appropriate from funds of the county not otherwise appropriated and to draw a warrant in the sum of $25,000 payable to Cathleen Smiley, now known as Cathleen Wailer, to compensate her for personal injuries and damages sustained.

Section 3. The amount paid by Brevard County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries and damages to Cathleen Smiley. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed $6,250, no amount may be paid for lobbying fees, and the total amount paid for costs and other similar expenses relating to this claim may not exceed $2,343.12.

Section 4. This act shall take effect upon becoming a law.
E. Proof of Publication for a Local Claim Bill

MIAMI DAILY BUSINESS REVIEW
Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared
O.V. FERBEYRE, who on oath says that he or she is the
VICE PRESIDENT, Legal Notices of the Miami Daily Business
Review f/k/a Miami Review, a daily (except Saturday, Sunday
and Legal Holidays) newspaper, published at Miami in Miami-Dade
County, Florida; that the attached copy of advertisement,
being a Legal Advertisement of Notice in the matter of

NOTICE OF PUBLICATION
RELIEF OF THE ESTATE OF ANDREA NICOLE CASTILLO
in the XXXX Court,
was published in said newspaper in the issues of

09/16/2015

Affiant further says that the said Miami Daily Business
Review is a newspaper published at Miami in said Miami-Dade
County, Florida and that the said newspaper has
heretofore been continuously published in said Miami-Dade County,
Florida, each day (except Saturday, Sunday and Legal Holidays) and
has been entered as second class mail matter at the post
office in Miami in said Miami-Dade County, Florida, for a
period of one year next preceding the first publication of the
attached copy of advertisement; and affiant further says that he or
she has neither paid nor promised any person, firm or corporation
any discount, rebate, commission or refund for the purpose of
securing the advertisement for publication in the said
newspaper.

Sworn to and subscribed before me this

16 day of SEPTEMBER, A.D. 2015

(Seal)

O.V. FERBEYRE personally known to me

NOTARY PUBLIC, STATE OF FLORIDA

NOTICE OF PUBLICATION
TO WHOM IT MAY CONCERN
Notice is hereby given that a bill to be entitled

A bill to be entitled
An act for the relief of Susana Vicana Castillo, as personal representative of the Estate of Andrea
Castillo, providing for an appropriation to compensate the
Estate of Andrea Castillo for her death as a result of the negligence of the City of Hialeah,
providing a limitation on the payment of fees and costs, providing that the amounts awarded
are intended to provide the sole compensation for all present and future claims relating to the wrongful death of
Andrea Castillo, providing an effective date
WHEREAS, on October 19, 2012, at about 9:45 p.m., 21-
year-old Andrea Castillo was traveling as a passenger in a
2012 Jeep Compass being oper...
F. Senate General Claim Bill

ENROLLED  
2010 Legislature  

201012er

An act for the relief of Stephen Hall; providing an
appropriation to compensate Stephen Hall for injuries
sustained as a result of the negligence of an employee
of the Department of Transportation; providing a
limitation of the payment of fees and costs; providing
an effective date.

WHEREAS, on June 30, 1997, Stephen Hall was a passenger in
a vehicle driven by his father, Edward Hall, traveling westbound
on State Road 500 in Brevard County, Florida, and
WHEREAS, David Eaker, an employee of the Department of
Transportation, was stopped on the north shoulder of State Road
500, headed in the same direction as the Hall vehicle, and
WHEREAS, as the Hall vehicle approached his vehicle, David
Eaker pulled into the path of the Hall vehicle, resulting in a
collision between the two vehicles, and
WHEREAS, Stephen Hall was injured and was transported by
ambulance to Holmes Regional Medical Center in Melbourne, where
he was treated for multiple traumatic injuries, including
multiple facial fractures and lacerations; multiple intra-oral
mucosal lacerations; and orthopedic injuries to his right arm
and shoulder, neck, and both knees, and
WHEREAS, as a result of the injuries, Stephen Hall was
subjected to multiple surgeries and physical therapy, will
likely need additional surgery for the injuries in the future,
missed 2 years of school, has suffered from mood swings and
depression, and has permanent facial disfigurement and
continuing problems as a result of the injuries, and

Coding: Words **strike** are deletions; words **underline** are additions.
WHEREAS, Stephen Hall’s medical expenses total $51,586.81
to date, and
WHEREAS, David Eaker was determined to be at fault and was
charged with failure to yield the right-of-way, and
WHEREAS, the Halls filed suit in the Eighteenth Judicial
Circuit, in and for Brevard County, against the Department of
Transportation in case number 05-2001-CA-006293, and
WHEREAS, the parties mediated the case and reached a
settlement of all claims, and
WHEREAS, the parties entered into a settlement agreement in
which the Department of Transportation admitted liability and
agreed to the entry of a consent judgment in the amount of
$500,000, and
WHEREAS, the Department of Transportation has previously
paid $112,000 to the claimant and agreed to affirmatively
support a claim bill in the amount of $388,000, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are
found and declared to be true.

Section 2. The Executive Office of the Governor is directed
to establish spending authority from unappropriated trust fund
balances in the Department of Transportation in the amount of
$388,000 to a new category titled “Relief: Stephen Hall” as
relief for injuries and damages sustained, which amount includes
attorney’s fees and costs.

Section 3. The Chief Financial Officer is directed to draw
a warrant, pursuant to the Stipulated Settlement Agreement

CODING: Words [deleted] are deletions; words [underlined] are additions.
executed by the Department of Transportation and Stephen Hall, in the sum of $388,000, upon funds of the Department of Transportation in the State Treasury, and the Chief Financial Officer is directed to pay the same out of funds in the State Treasury.

Section 4. Any amount awarded under this act pursuant to the waiver of sovereign immunity permitted under s. 768.28, Florida Statutes, and this award are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in the preamble to this act which resulted in the injury to Stephen Hall. The total amount paid for attorney’s fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the amount awarded under section 2.

Section 5. This act shall take effect upon becoming a law.
An act for the relief of the Estate of Dr. Sherrill Lynn Aversa; providing an appropriation to compensate the Estate of Dr. Sherrill Lynn Aversa for Dr. Aversa’s death as a result of the negligence of the Department of Transportation; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on June 21, 1999, an employee of the Department of Transportation was driving a department vehicle north on Interstate 75 in Hillsborough County, and

WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having completed an interview at the University of South Florida Medical School, was traveling south on Interstate 75, and

WHEREAS, according to departmental policy, employees of the department are required to ensure that all items used by the department and stored on a department vehicle are appropriately secured, and

WHEREAS, one such item used by the department was a 12-foot extension ladder stored on the roof of the truck driven by the department employee and the employee failed to ensure that the ladder was secured to the vehicle before leaving the department’s maintenance yard, and

WHEREAS, as the employee traveled north on Interstate 75 in
the department vehicle, the extension ladder flew off the roof into the northbound traffic traveling behind the department vehicle, and

WHEREAS, the driver of the vehicle traveling behind the department vehicle swerved to avoid hitting the ladder and, as a result of the swerving movement, lost control of her vehicle, veered to the left, crossed the Interstate 75 median, and struck Dr. Aversa's southbound vehicle, killing Dr. Aversa instantly, and

WHEREAS, as a result of these events, the Estate of Dr. Sherrill Lynn Aversa brought suit against the department for its negligence in causing the death of Dr. Aversa, and

WHEREAS, after 3 years of litigation, the department admitted liability for the accident and agreed to settle the case, and

WHEREAS, the parties agreed to a consent judgment in the amount of $800,000 solely against the department, with no finding of comparative negligence against any other party, and

WHEREAS, the department has paid $150,000 to the Estate of Dr. Sherrill Lynn Aversa consistent with the statutory limits of liability set forth in s. 768.28, Florida Statutes, NOW,

THEREFORE,

Be It Enacted by the Legislature of the State of Florida:
Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. There is appropriated from the State Transportation Trust Fund to the Department of Transportation the sum of $650,000 for the relief of the Estate of Dr. Sherrill Lynn Aversa for the death of Dr. Sherrill Lynn Aversa, which amount includes attorney fees and costs.

Section 3. The Chief Financial Officer is directed to draw a warrant, pursuant to the stipulated settlement agreement executed by the Department of Transportation and the personal representative of the Estate of Dr. Sherrill Lynn Aversa, in the amount of $650,000 upon funds of the Department of Transportation in the State Treasury, and the Chief Financial Officer is directed to pay the same sum out of such funds in the State Treasury.

Section 4. The amount paid by the Department of Transportation pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for this excess judgment claim and for all other present and future claims arising out of the factual situation described in this act which resulted in the death of Dr. Sherrill Lynn Aversa. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed $123,500, the total amount paid for lobbying fees may not exceed $39,000, and no amount may be paid for costs or other similar expenses.
Section 5. This act shall take effect upon becoming a law.