

By Senator Campbell

33-1041-98

1                                   A bill to be entitled  
2           An act relating to state financial assets;  
3           providing definitions; providing that a  
4           contract manager who, through culpable  
5           negligence, causes a loss of state financial  
6           assets of more than a specified amount commits  
7           the offense of culpable negligence causing  
8           public financial injury; providing penalties;  
9           requiring that certain contracts on behalf of  
10          the state provide notice of the act; providing  
11          that failure to provide such notice is not a  
12          defense to prosecution under the act;  
13          authorizing the state attorney or statewide  
14          prosecutor to prosecute the offense of culpable  
15          negligence causing public financial injury;  
16          providing an effective date.

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

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20           Section 1. Culpable negligence causing public  
21 financial injury.--

22           (1) As used in this section, the term:

23           (a) "Contract manager" means any person described in  
24 section 1.01, Florida Statutes, who has been given the  
25 custody, and awarded the privilege, of administering state  
26 financial assets in a state trust fund pursuant to a contract.  
27 The term includes a business and its owners, operators,  
28 officers, directors, partners, or other individuals engaged in  
29 the management activities of the business.

30           (b) "Entrusted by the state" means that the state has  
31 given custody of and disbursement authority over state

1 financial assets to the contract manager by means of a  
2 contract, without regard to whether a fiduciary relationship  
3 exists between the state and the contract manager.

4 (c) "State financial assets" means monetary funds  
5 intended for, existing in, or owned to any state trust fund,  
6 including any negotiable instrument or other monetary  
7 instrument drawn on or disbursed from a state trust fund.

8 (2) Any contract manager who, having been entrusted by  
9 the state with the care and custody of state financial assets  
10 in a state trust fund, causes, or through inaction allows to  
11 be caused, aggregate financial losses valued at \$100,000 or  
12 more of those state financial assets over a 12-month period  
13 through culpable negligence, commits the offense of culpable  
14 negligence causing public financial injury.

15 (a) If the loss to state financial assets is valued at  
16 \$100,000 or more, but less than \$250,000, the person commits a  
17 felony of the third degree, punishable as provided in section  
18 775.082, section 775.083, or section 775.084, Florida  
19 Statutes.

20 (b) If the loss to state financial assets is valued at  
21 \$250,000 or more, but less than \$500,000, the person commits a  
22 felony of the second degree, punishable as provided in section  
23 775.082, section 775.083, or section 775.084, Florida  
24 Statutes.

25 (c) If the loss to state financial assets is valued at  
26 \$500,000 or more, the person commits a felony of the first  
27 degree, punishable as provided in section 775.082, section  
28 775.083, or section 775.084, Florida Statutes.

29 (3) Any contract on behalf of the state which has a  
30 contract value of \$50,000 or more must include notice of the  
31 provisions of subsection (2). Failure to provide such notice

1 is not a defense to the crime of culpable negligence causing  
2 public financial injury.

3 (4) A prosecution for a violation of this section may  
4 be brought on behalf of the state by any state attorney or by  
5 the statewide prosecutor.

6 Section 2. This act shall take effect July 1, 1998.

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9 SENATE SUMMARY

10 Provides that if a contract manager, through culpable  
11 negligence, causes a loss of state financial assets of  
12 \$100,000 or more, commits the offense of culpable  
13 negligence causing public financial injury. Provides  
14 penalties based on the amount of the financial loss.  
15 Requires that state contracts include notice of the  
16 offense. Authorizes the state attorney or statewide  
17 prosecutor to prosecute the offense.

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