

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1778

SPONSOR: Senator McKay

SUBJECT: Florida Statutes

DATE: March 13, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill repeals certain statutes that are considered to be outdated, obsolete, unnecessary, or impliedly superseded.

The bill repeals the following sections of the Florida Statutes:

- 766.106(13), relating to medical malpractice presuit requirements.
- 768.151, relating to sovereign immunity.
- 768.27, relating to the effective date of the Wrongful Death Act.
- 768.30, relating to sovereign immunity in tort actions.

The bill shall take effect on becoming law.

This bill repeals the following sections of the Florida Statutes: 766.106(13), 768.151, 768.27, 768.30.

II. Present Situation:

During the 1999-2000 legislative interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original sections of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority;
2. A provision rendered obsolete due to passage of time;
3. A requirement which was nonrecurring due to the completion of the activity;

4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application;
5. A cross-reference to another section which was otherwise repealed;
6. The use of boilerplate language, such as a severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation;
7. The creation of a short title, or popular name, unrelated to the purpose of the statute;
8. The use of archaic language or descriptions; and
9. A redundancy in text or reference no longer needed.

Section 766.106, F.S. sets forth the presuit notice requirements for medical malpractice actions. Subsection (13) is an effectiveness provision which states that s. 766.106, F.S., will apply to any cause of action with respect to which suit has not been filed prior to October 1, 1985. It is very unlikely that there are any medical malpractice suits that have been ongoing since prior to October 1, 1985. As such, subsection (13) is unnecessary since it will generally apply to all existing medical malpractice suits.

Section 768.151, F.S., revives the waiver of sovereign immunity authorized by chapter 69-116, L.O.F., which was repealed by chapter 69-357, L.O.F., for causes of action arising during the period from July 1, 1969 to July 1, 1970. The statute also provides that any person who claims a right of action pursuant to chapter 69-116, L.O.F., during its effective period has the right to file the action at any time after July 1, 1971, but before July 1, 1972. Any such causes of action that might have accrued during that time would ordinarily be barred by applicable statutes of limitations or repose, and therefore there is little likelihood that such causes of action exist today. Section 768.151, F.S., is therefore unnecessary.

Section 768.27, F.S., provides an effective date for the Wrongful Death Act. That section states that the Act will be effective for deaths occurring after July 1, 1972. Because it is unlikely that a cause of action under that Act survives to the present, the effectiveness provision is unnecessary.

Section 768.30, F.S., provides an effectiveness date for the sovereign immunity provisions of s. 768.28, F.S. The law states that the section will be effective for the executive branch on July 1, 1974 and for all other state agencies on January 1, 1975. It is unlikely that any tort causes of action that might implicate s. 768.28, F.S., and that arose before 1974 or 1975, survive to the present. As such, s. 768.30, F.S., is unnecessary.

III. Effect of Proposed Changes:

The bill repeals the following sections of the Florida Statutes:

- 766.106(13), relating to medical malpractice presuit requirements.
- 768.151, relating to sovereign immunity.
- 768.27, relating to the effective date of the Wrongful Death Act. The only section of the Wrongful Death Act that is being repealed is the section providing an effective date for the Act. The repeal of the effective date does not imply that the entire Wrongful Death Act is being repealed as the intent is only to delete a provision from the Act that is no longer relevant as there are no causes of action that could have accrued before the effective date of the Act (i.e. July 1, 1972) that would not be barred by the applicable statute of limitations.

- 768.30, relating to sovereign immunity in tort actions. This section provides an effective date for the waiver of sovereign immunity contained in s. 768.28, F.S.. The repeal of the effective date does not imply that the waiver of sovereign immunity in s. 768.28, F.S., is also being repealed as the intent is only to repeal a provision that is no longer relevant as there are no causes of action that could have accrued before the effective dates of July 1, 1974, and January 1, 1975, that would not be barred by the applicable statute of limitations.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
