

By Senator Campbell

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A bill to be entitled

An act relating to sovereign immunity; amending s. 768.28, F.S.; expanding the liability of the state and its agencies and subdivisions under specified circumstances; providing an effective date.

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

Section 1. Subsection (5) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.--

(5) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$100,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$200,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this act up to \$100,000 or \$200,000, as the case may be, or may be settled and paid up to indemnity limits in an amount in excess of \$100,000 or \$200,000, as the case may be, if the defendant

1 state, agency, or subdivision has available liability
2 insurance coverage; and that portion of the judgment that
3 exceeds these amounts may be reported to the Legislature, but
4 may be paid in part or in whole only by further act of the
5 Legislature. Notwithstanding the limited waiver of sovereign
6 immunity provided herein, the state or an agency or
7 subdivision thereof may agree, within the limits of insurance
8 coverage provided, to settle a claim made or a judgment
9 rendered against it without further action by the Legislature,
10 but the state or agency or subdivision thereof shall not be
11 deemed to have waived any defense of sovereign immunity or to
12 have increased the limits of its liability as a result of its
13 obtaining insurance coverage for tortious acts in excess of
14 the \$100,000 or \$200,000 waiver provided above. The
15 limitations of liability set forth in this subsection shall
16 apply to the state and its agencies and subdivisions whether
17 or not the state or its agencies or subdivisions possessed
18 sovereign immunity before July 1, 1974.

19 Section 2. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Expands the liability in tort actions of the state and its agencies and subdivisions beyond the \$100,000 or \$200,000 limits up to the indemnity limits of their existing liability insurance coverage, if any.