

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 878

SPONSOR: Senator Webster

SUBJECT: Educator Professional Liability Insurance

DATE: April 12, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Farrell	O'Farrell	ED	Fav/1 amendment
2.	Wilson	Wilson	GO	Favorable
3.			AED	
4.			AP	
5.				
6.				

## I. Summary:

The legislation provides professional liability insurance protection, at state cost, for all full-time instructional personnel working under contract for local public school boards. The same liability insurance protection is available, at cost, to part-time instructional personnel who are working under school board contract and who choose to participate in the insurance program. The intent of the Legislature is that all teachers be protected from liability for monetary damages and legal costs arising from claims made against them for incidents occurring during the performance of their professional duties. The program coverage begins with the effective date of the bill, July 1, 2001.

This bill creates section 231.800 of the Florida Statutes.

## II. Present Situation:

The term "instructional personnel" is defined by s. 228.041(9), F.S., to include: classroom teachers, guidance counselors, social workers, school psychologists, librarians, learning resource specialists, educational paraprofessionals, and other personnel whose function includes the provision of direct instructional service to students.

Sovereign immunity (s. 768.28(9)(a), F.S.) protects state and local government employees in Florida, including school district instructional personnel, from civil suits when the employees are acting in their professional capacity. Such immunity does not, however, protect an employee from civil actions claiming the employee acted in either bad faith, malicious purpose, or wanton and willful disregard.

Currently, a person working in an instructional capacity in a public school district has several options for obtaining professional liability insurance:

- The employee can obtain the insurance on his or her own, at personal cost;
- The employee can obtain coverage by participating in a district group plan, if such a plan is available;
- The employee can obtain coverage by virtue of membership in a union or professional association that offers such protection to members; or
- The employee can obtain coverage through membership in an organization that offers a group plan for professional liability insurance at a cost in addition to membership dues.

A fairly typical professional liability insurance policy will offer \$1 million in liability coverage per person, and a \$3 million cap per incident. Several policies also carry coverage in lesser amounts for civil rights incidents.

As of October 2000, there were approximately 181,500 full-time instructional personnel in Florida public schools. The breakdown is as follows:

Teachers	134,500
Other instructional personnel	16,000
Teacher aides (paraprofessionals)	31,000

### **III. Effect of Proposed Changes:**

The bill provides state paid for educator professional liability coverage for all public school full-time instructional personnel beginning July 1, 2001. In addition, part-time instructional personnel have the option of participating in the program at their own cost.

### **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:**

Public school full-time instructional personnel are provided professional liability insurance at no cost to themselves. Part-time instructional personnel choosing to participate in the program must pay the premium cost.

**C. Government Sector Impact:**

One of the major providers of liability insurance for teachers estimates an annual cost per employee insured at \$10, based on an insured pool of 100,000 employees. The larger the pool of covered employees, the lower the cost per insured. Based on the company's estimates, the maximum annual cost would be \$1.8 million plus (\$10 X 181,500 employees). Chances are the actual cost would be lower than that, and if a number of part-time personnel participate, the cost per participant insured would decrease. Any company will, of course, have a minimum total policy cost for providing the liability insurance program.

The bill provides that the cost of the program will be provided annually by a specific appropriation in the General Appropriations Act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Education:

School district administrative personnel are authorized to participate, at cost, in the state educator professional liability insurance program. The terms "full-time personnel" and "part-time personnel" are to be defined by school board policy for purposes of the professional liability insurance program. (WITH TITLE AMENDMENT)