

By Senators Smith, Peaden, Cowin, Pruitt, Campbell, King and Mitchell

5-2406A-02

1 A bill to be entitled

2 An act relating to state university boards of

3 trustees; amending s. 766.112, F.S.;

4 prescribing applicability of provisions

5 relating to comparative fault to boards of

6 trustees; amending s. 768.28, F.S.; providing

7 venue in actions brought against boards of

8 trustees; providing applicability of provisions

9 relating to waiver of sovereign immunity to

10 boards of trustees; amending s. 626.852, F.S.;

11 providing inapplicability of provisions

12 relating to insurance adjusters to employees

13 and agents of a board of trustees; providing

14 for construction of laws enacted at the 2002

15 Regular Session in relation to this act;

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. Subsection (2) of section 766.112, Florida

21 Statutes, is amended to read:

22 766.112 Comparative fault.--

23 (2) In an action for damages for personal injury or

24 wrongful death arising out of medical malpractice, whether in

25 contract or tort, when an apportionment of damages pursuant to

26 s. 768.81 is attributed to a ~~the~~ board of trustees of a state

27 university Regents, the court shall enter judgment against the

28 board of trustees ~~Regents~~ on the basis of the board's ~~such~~

29 ~~party's~~ percentage of fault and not on the basis of the

30 doctrine of joint and several liability. The sole remedy

31 available to a claimant to collect a judgment or settlement

1 against a board of trustees ~~damages~~, subject to the provisions
2 of this subsection, ~~against the Board of Regents~~ shall be
3 pursuant to s. 768.28.

4 Section 2. Subsections (1) and (2) of section 768.28,
5 Florida Statutes, are amended to read:

6 768.28 Waiver of sovereign immunity in tort actions;
7 recovery limits; limitation on attorney fees; statute of
8 limitations; exclusions; indemnification; risk management
9 programs.--

10 (1) In accordance with s. 13, Art. X of the State
11 Constitution, the state, for itself and for its agencies or
12 subdivisions, hereby waives sovereign immunity for liability
13 for torts, but only to the extent specified in this act.
14 Actions at law against the state or any of its agencies or
15 subdivisions to recover damages in tort for money damages
16 against the state or its agencies or subdivisions for injury
17 or loss of property, personal injury, or death caused by the
18 negligent or wrongful act or omission of any employee of the
19 agency or subdivision while acting within the scope of the
20 employee's office or employment under circumstances in which
21 the state or such agency or subdivision, if a private person,
22 would be liable to the claimant, in accordance with the
23 general laws of this state, may be prosecuted subject to the
24 limitations specified in this act. Other than an action
25 against a state university board of trustees, which must be
26 brought in the county in which that university's main campus
27 is located or in which it maintains a substantial presence for
28 the transaction of its customary business, any such action may
29 be brought in the county where the property in litigation is
30 located or, if the affected agency or subdivision has an
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1 office in such county for the transaction of its customary
2 business, where the cause of action accrued.

3 (2) As used in this act, "state agencies or
4 subdivisions" include the executive departments, the
5 Legislature, the judicial branch (including public defenders),
6 and the independent establishments of the state, including
7 state university boards of trustees; counties and
8 municipalities; and corporations primarily acting as
9 instrumentalities or agencies of the state, counties, or
10 municipalities, including the Spaceport Florida Authority.

11 Section 3. Subsection (5) of section 626.852, Florida
12 Statutes, is amended to read:

13 626.852 Scope of this part.--

14 (5) This part does not apply to any employee or agent
15 of a state university ~~the board of trustees~~ Regents providing
16 services in support of any self-insurance program created
17 under s. 240.213 or s. 1004.24 ~~adopted by such Board of~~
18 Regents.

19 Section 4. The amendments to sections 766.112(2) and
20 768.28(1) and (2) shall apply to actions filed on or after
21 July 1, 2002.

22 Section 5. If any law that is amended by this act was
23 also amended by a law enacted at the 2002 Regular Session of
24 the Legislature, such laws shall be construed as if they had
25 been enacted at the same session of the Legislature, and full
26 effect should be given to each if that is possible.

27 Section 6. This act shall take effect July 1, 2002.
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SENATE SUMMARY

Prescribes applicability of comparative fault and waiver of sovereign immunity provisions to university boards of trustees. Provides for the inapplicability of the insurance adjusters law to employees and agents of a board of trustees.