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1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 11.02, F.S.; revising terminology; amending s. 11.045,
4 F.S.; providing requirements for lobbyists of claim
5 bills; amending s. 11.047, F.S.; revising terminology;
6 amending s. 11.065, F.S.; removing a limitation on
7 presenting a claim to the Legislature; limiting the
8 ability to file a claim bill; amending s. 766.1115,
9 F.S.; conforming a cross-reference; amending s.
10 768.28, F.S.; naming the section the "Florida Fair
11 Claims Act"; revising requirements relating to waiver
12 of sovereign immunity; revising terminology; requiring
13 a judge to determine damages; providing that certain
14 damages be placed into trust; providing for
15 distribution of damages in trust upon the death of a
16 claimant; providing for periodic payment of damages;
17 providing a definition; authorizing political
18 subdivisions to insure for certain amounts to avoid a
19 claim bill; providing requirements with respect to
20 such insurance; prohibiting a claim bill under certain
21 conditions; providing a remedy against insurers who
22 act in bad faith; raising caps on damages for awards
23 against local governments; providing for settlement
24 above the cap on damages; providing for annual
25 adjustment to the cap on damages against local
26 governments; providing for severability; providing for
27 applicability; providing an effective date.
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29 WHEREAS, Florida has adopted the common law of England as
30 it existed on July 4, 1776, including the doctrine of sovereign
31 immunity, and

32 WHEREAS, all states provide some waiver to its sovereign
33 immunity, including Florida, and

34 WHEREAS, at least fourteen states have no limits on damages
35 for authorized lawsuits against local governments, and of the
36 states that do have such limits, Florida's are lower than at
37 least half of those states, and

38 WHEREAS, it appears that no other state has a claim bill
39 process at the state level for excess tort settlements and
40 judgments against local governments, and

41 WHEREAS, decisions affecting the spending of local funds
42 are best made by the legislative bodies of local governments and
43 decisions affecting the spending of state funds are best made by
44 the Florida Legislature, and

45 WHEREAS, parties injured by negligent acts of officers,
46 employees, and agents of government entities are entitled to
47 fair compensation for their injuries, and

48 WHEREAS, such parties who are not fairly compensated often
49 must rely on state and federal funded health care programs for
50 their medical care, and

51 WHEREAS, it is the intention of the Florida Legislature to
52 have tort claims against local governments resolved by the
53 responsible local government to the greatest extent practicable,
54 and

55 WHEREAS, The Legislature recognizes the financial
56 constraints facing state and local governments and that some

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sensible restrictions must be placed on lawsuits against such governments, NOW, THEREFORE,

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

Section 1. Section 11.02, Florida Statutes, is amended to read:

11.02 Notice of special or local legislation or certain claim bills ~~relief acts~~.—The notice required to obtain special or local legislation or any claim bill ~~relief act~~ specified in s. 11.065(2) ~~s. 11.065~~ shall be by publishing the identical notice in each county involved in some newspaper as defined in chapter 50 published in or circulated throughout the county or counties where the matter or thing to be affected by such legislation shall be situated one time at least 30 days before introduction of the proposed law into the Legislature or, there being no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties where the matter or thing to be affected by such legislation shall be situated. Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution. Notice of any claim bill ~~relief act~~ specified in s. 11.065(2) ~~s. 11.065~~ shall state the name of the claimant, the nature of the injury or loss for which the claim is made, and the amount of the claim being sought against the affected political subdivision

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85 ~~municipality's revenue-sharing trust fund.~~

86 Section 2. Subsection (10) is added to section 11.045,
87 Florida Statutes, to read:

88 11.045 Lobbying before the Legislature; registration and
89 reporting; exemptions; penalties.—

90 (10) (a) Each lobbyist lobbying a claim bill must disclose
91 his or her interest and participation to the President of the
92 Senate and the Speaker of the House of Representatives prior to
93 lobbying such claim bill. Such disclosure must be in writing and
94 state the name of the principal retaining the lobbyist.

95 (b) A lobbyist may not represent more than one client on a
96 claim bill without written permission from each client. A copy
97 of the written permission from the clients must be included in
98 the disclosure required under paragraph (a).

99 (c) A lobbyist may not lobby a claim bill for a client
100 that has an adverse position to a previous client of the
101 lobbyist without written permission from each client. A copy of
102 the written permission from the clients must be included in the
103 disclosure required under paragraph (a).

104 (d) Any attorney lobbying on behalf of a client, a law
105 firm, or for themselves, any of which has a pecuniary interest
106 in the claim bill, shall be deemed a lobbyist as defined in this
107 section and s. 112.3215 and shall register and comply with all
108 requirements of this section and s. 112.3215.

109 (e) Violations of this subsection shall be investigated
110 and punished pursuant to subsection (7).

111 Section 3. Subsection (2) of section 11.047, Florida
112 Statutes, is amended to read:

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11.047 Contingency fees; prohibitions; penalties.—

(2) No person may, in whole or in part, pay, give, or receive, or agree to pay, give, or receive, a contingency fee. However, this subsection does not apply to claim ~~claims~~ bills.

Section 4. Section 11.065, Florida Statutes, is amended to read:

11.065 Claim bills ~~Claims against state; limitations; notice.—~~

(1) ~~No claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Any claim presented after this time of limitation shall be void and unenforceable.~~

~~(2)~~ All claim bills passed by ~~relief acts of~~ the Legislature shall be for payment in full. No further claims for relief shall be submitted to the Legislature in the future.

~~(2)(3)~~ Notice shall be given as provided in s. 11.02 prior to the introduction of any claim bill ~~relief act~~ which provides for the payment of the claim from funds of a political subdivision ~~scheduled for distribution to a municipality from the revenue-sharing trust fund for municipalities.~~

(3)1. Provided that interest on the amount sought in any claim bill whose proceeds are paid exclusively from the treasury of a local government entity begins to accrue once the claim bill is timely filed in the Legislature, such claim bill must be sponsored by a member of the local legislative delegation that is the principal location of such entity. However, such claim bill does not require consideration by the delegation as a whole in the same manner as a local bill.

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141 2. In any instance in which the local legislative
142 delegation consists of only a single member of either the Senate
143 or the House of Representatives, a claim bill meeting the
144 requirements of subparagraph 1. may be sponsored by a member who
145 represents a district adjoining the district of that single
146 member.

147 Section 5. Paragraph (b) of subsection (11) of section
148 766.1115, Florida Statutes, is amended to read:

149 766.1115 Health care providers; creation of agency
150 relationship with governmental contractors.—

151 (11) APPLICABILITY.—This section applies to incidents
152 occurring on or after April 17, 1992. This section does not:

153 (b) Apply to any affiliation agreement or other contract
154 that is subject to s. 768.28(10)(e) ~~s. 768.28(10)(f)~~.

155 Section 6. Section 768.28, Florida Statutes, is amended to
156 read:

157 768.28 Florida Fair Claims Act; waiver of sovereign
158 immunity in tort actions; recovery limits; limitation on
159 attorney fees; statute of limitations; exclusions;
160 indemnification; risk management programs.—

161 (1)(a) This section may be referred to as the "Florida
162 Fair Claims Act."

163 (b) In accordance with s. 13, Art. X of the State
164 Constitution, the state, for itself and for its agencies and ~~or~~
165 political subdivisions, hereby waives sovereign immunity for
166 liability for torts, but only to the extent specified in this
167 section ~~act~~. Actions at law against the state or any of its
168 agencies or political subdivisions to recover damages in tort

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169 for money damages against the state or its agencies or political
170 subdivisions for injury or loss of property, personal injury, or
171 death caused by the negligent or wrongful act or omission of any
172 employee of the agency or political subdivision while acting
173 within the scope of the employee's office or employment under
174 circumstances in which the state or such agency or political
175 subdivision, if a private person, would be liable to the
176 claimant, in accordance with the general laws of this state, may
177 be prosecuted subject to the limitations specified in this
178 section ~~act~~.

179 (c) Any such action authorized by this section may be
180 brought in the county where the property in litigation is
181 located or, if the affected agency or political subdivision has
182 an office in such county for the transaction of its customary
183 business, where the cause of action accrued. However, any such
184 action against a state university board of trustees shall be
185 brought in the county in which that university's main campus is
186 located or in the county in which the cause of action accrued if
187 the university maintains therein a substantial presence for the
188 transaction of its customary business.

189 (d) Unless waived by all parties, any such action
190 authorized by this section shall be tried by a jury as to issues
191 related to liability, including breach of duty, causation, and
192 any comparative fault. Upon a finding of liability by the jury,
193 a separate bench trial shall be held by the judge to determine
194 the amount of damages.

195 (e) Any award of past damages shall be paid to the
196 claimant within 30 days of final judgment or exhaustion of

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197 appeals, whichever occurs later.

198 (f)1. Except as provided in paragraph (g), any award of
199 future medical damages shall be paid into a special needs trust
200 for that purpose.

201 2. All other awards for future damages, such as lost wages
202 or pain and suffering, shall also be paid into a trust and
203 distributed to the claimant from the trust annually. Such
204 distribution of other awards for future damages from the trust
205 shall be made pursuant to the final order of the judge. The
206 judge's order shall order the distribution based on the
207 calculations made in awarding such damages and as they come due.

208 3. Trusts created pursuant to subparagraphs 1. and 2., may
209 be funded over time by the state agency or political subdivision
210 through the purchase of an annuity as approved by the judge.

211 4. Other than future lost wages, any unspent funds
212 remaining in trust upon the death of the claimant paid by the
213 state agency or political subdivision pursuant to the underlying
214 judgment shall revert back to that state agency or political
215 subdivision.

216 (g) Any award of future damages may be made in periodic
217 payments upon request of the state agency or political
218 subdivision and approval of the judge that the claimant will not
219 suffer a substantial hardship as a result of the periodic
220 payments. Periodic payments will be due as ordered by the judge
221 and as the need is anticipated for the claimant.

222 (2)(a) As used in this section ~~act~~, "state agency ~~agencies~~
223 ~~or subdivisions~~" includes include the executive departments, the
224 Legislature, the judicial branch (including public defenders),

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225 and the independent establishments of the state, including state
226 university boards of trustees, ~~counties and municipalities,~~ and
227 corporations primarily acting as instrumentalities or agencies
228 of the state, ~~counties, or municipalities, including the Florida~~
229 ~~Space Authority.~~

230 (b) As used in this section, "political subdivision"
231 includes counties, municipalities, special tax school districts,
232 special road and bridge districts, hospital districts, all other
233 districts in this state, and corporations primarily acting as
234 instrumentalities or agencies of political subdivisions,
235 including Space Florida.

236 (3) Except for a political subdivision ~~municipality and~~
237 ~~the Florida Space Authority,~~ the affected agency ~~or subdivision~~
238 may, at its discretion, request the assistance of the Department
239 of Financial Services in the consideration, adjustment, and
240 settlement of any claim under this section ~~act~~.

241 (4) Subject to the provisions of this section, any state
242 agency or political subdivision shall have the right to appeal
243 any award, ~~compromise, settlement,~~ or determination to the court
244 of appropriate jurisdiction.

245 (5)(a) The state and its agencies and political
246 subdivisions shall be liable for tort claims in the same manner
247 and to the same extent as a private individual under like
248 circumstances, but liability shall not include punitive damages
249 or interest for the period before judgment.

250 (b)1. A political subdivision that purchases insurance or
251 self-insures to cover liabilities under this section in an
252 amount equal to or greater than three times the limits of

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liability set forth in paragraph (d) is afforded the protections of this paragraph for such liabilities that occur while such insurance or self-insurance is in effect.

2.a. Insurance purchased pursuant to subparagraph 1. must pay for covered liabilities up to the policy amounts and not be contingent upon some further act of the Legislature.

b. Self-insurance maintained pursuant to subparagraph 1. must require that, within 45 days after receipt of the notice of loss from the claimant, the lesser of the amount the claimant is willing to accept or the policy limits is deposited into a contingent liability account and held there pending the resolution of the related litigation.

3. Notwithstanding other provisions of this section, a political subdivision that purchases insurance or self-insures in compliance with this paragraph is only liable for its deductible under the policy and is not liable for any judgments in excess of the limits of such policy. A party injured by a tort covered by such a policy may not seek payment from the insured beyond the insurance coverage for such tort and any claim for relief related to such tort submitted to the Legislature in the future shall be treated by the Legislature as a claim bill against the state, not as a local claim bill, and shall be paid from state funds.

4. Notwithstanding subparagraph 3., a party injured as a result of a tort covered by this paragraph may pursue a judgment in excess of the policy limits if the insurer is found to have acted in bad faith in meeting its obligations under its policy with the political subdivision.

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281 (c) Except for political subdivisions, neither the state
282 nor its agencies ~~or subdivisions~~ shall be liable to pay a claim
283 or a judgment by any one person which exceeds the sum of
284 \$200,000 or any claim or judgment, or portions thereof, which,
285 when totaled with all other claims or judgments paid by the
286 state or its agencies ~~or subdivisions~~ arising out of the same
287 incident or occurrence, exceeds the sum of \$300,000. However, a
288 judgment or judgments may be claimed and rendered in excess of
289 these amounts and may be settled and paid pursuant to this
290 section ~~act~~ up to \$200,000 or \$300,000, as the case may be; and
291 that portion of the judgment that exceeds these amounts may be
292 reported to the Legislature, but may be paid in part or in whole
293 only by further act of the Legislature. Notwithstanding the
294 limited waiver of sovereign immunity provided herein, the state
295 or an agency ~~or subdivision thereof~~ may agree, within the limits
296 of insurance coverage provided, to settle a claim made or a
297 judgment rendered against it without further action by the
298 Legislature, but the state or agency ~~or subdivision thereof~~
299 shall not be deemed to have waived any defense of sovereign
300 immunity or to have increased the limits of its liability as a
301 result of its obtaining insurance coverage for tortious acts in
302 excess of the \$200,000 or \$300,000 waiver provided in this
303 paragraph ~~above~~.

304 (d) Except as provided in paragraph (b), political
305 subdivisions shall not be liable to pay a claim or a judgment by
306 any one person which exceeds the sum of \$1 million or any claim
307 or judgment, or portions thereof, which, when totaled with all
308 other claims or judgments paid by the political subdivision

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arising out of the same incident or occurrence, exceeds the sum of \$1.5 million. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this section up to \$1 million or \$1.5 million as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature. Notwithstanding the limited waiver of sovereign immunity provided herein, a political subdivision may agree to settle a claim made or a judgment rendered against it without further action by the Legislature, but the political subdivision shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of obtaining insurance coverage for tortious acts in excess of the \$1 million or \$1.5 million waiver provided in this paragraph.

(e) The limitations of liability set forth in this subsection shall apply to the state and its agencies and political subdivisions whether or not the state or its agencies or political subdivisions possessed sovereign immunity before July 1, 1974.

(f) The limitations of liability set forth in paragraph (d) shall be adjusted on July 1 of each year based on any increase or decrease from the most recent year available as set in the Consumer Price Index for the Southeastern United States published by the Bureau of Labor Statistics of the United States Department of Labor.

(6) (a) An action may not be instituted on a claim against

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the state or one of its agencies or political subdivisions unless the claimant presents the claim in writing to the appropriate agency, and also, except as to any claim against a political subdivision ~~municipality or the Florida Space Authority~~, presents such claim in writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency denies the claim in writing; except that, if:

1. Such claim is for contribution pursuant to s. 768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such judgment, within 6 months after the tortfeasor seeking contribution has either discharged the common liability by payment or agreed, while the action is pending against her or him, to discharge the common liability; or

2. Such action is for wrongful death, the claimant must present the claim in writing to the appropriate agency or political subdivision and the Department of Financial Services, if applicable, within 2 years after the claim accrues.

(b) For purposes of this section, the requirements of notice to the appropriate agency or political subdivision and the Department of Financial Services, if applicable, and denial of the claim pursuant to paragraph (a) are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues.

(c) The claimant shall also provide to the agency or

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365 political subdivision and the Department of Financial Services,
366 if applicable, the claimant's date and place of birth and social
367 security number if the claimant is an individual, or a federal
368 identification number if the claimant is not an individual. The
369 claimant shall also state the case style, tribunal, the nature
370 and amount of all adjudicated penalties, fines, fees, victim
371 restitution fund, and other judgments in excess of \$200, whether
372 imposed by a civil, criminal, or administrative tribunal, owed
373 by the claimant to the state, its agency, officer or political
374 subdivision. If there exists no prior adjudicated unpaid claim
375 in excess of \$200, the claimant shall so state.

376 (d) For purposes of this section, complete, accurate, and
377 timely compliance with the requirements of paragraph (c) shall
378 occur prior to settlement payment, close of discovery or
379 commencement of trial, whichever is sooner; provided the ability
380 to plead setoff is not precluded by the delay. This setoff shall
381 apply only against that part of the settlement or judgment
382 payable to the claimant, minus claimant's reasonable attorney's
383 fees and costs. Incomplete or inaccurate disclosure of unpaid
384 adjudicated claims due the state, its agency, officer, or
385 political subdivision, may be excused by the court upon a
386 showing by the preponderance of the evidence of the claimant's
387 lack of knowledge of an adjudicated claim and reasonable inquiry
388 by, or on behalf of, the claimant to obtain the information from
389 public records. Unless the appropriate agency or political
390 subdivision had actual notice of the information required to be
391 disclosed by paragraph (c) in time to assert a setoff, an
392 unexcused failure to disclose shall, upon hearing and order of

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393 court, cause the claimant to be liable for double the original
394 undisclosed judgment and, upon further motion, the court shall
395 enter judgment for the agency or political subdivision in that
396 amount. Except as provided otherwise in this subsection, the
397 failure of the Department of Financial Services or the
398 appropriate agency or political subdivision to make final
399 disposition of a claim within 6 months after it is filed shall
400 be deemed a final denial of the claim for purposes of this
401 section. For purposes of this subsection, in medical malpractice
402 actions and in wrongful death actions, the failure of the
403 Department of Financial Services or the appropriate agency or
404 political subdivision to make final disposition of a claim
405 within 90 days after it is filed shall be deemed a final denial
406 of the claim. The statute of limitations for medical malpractice
407 actions and wrongful death actions is tolled for the period of
408 time taken by the Department of Financial Services or the
409 appropriate agency or political subdivision to deny the claim.
410 The provisions of this subsection do not apply to such claims as
411 may be asserted by counterclaim pursuant to s. 768.14.

412 (7) In actions brought pursuant to this section, process
413 shall be served upon the head of the agency concerned and also,
414 except as to a defendant political subdivision ~~municipality or~~
415 ~~the Florida Space Authority~~, upon the Department of Financial
416 Services, ~~and the department,~~ or the agency, or political
417 subdivision concerned shall have 30 days within which to plead
418 thereto.

419 (8) No attorney may charge, demand, receive, or collect,
420 for services rendered, fees in excess of 25 percent of any

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judgment or settlement.

(9) (a) No officer, employee, or agent of the state or of any of its political subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the state or any of its political subdivisions or constitutional officers shall be by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its political subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

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(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115; any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (10) (e) ~~(10) (f)~~; and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

(c) For purposes of the waiver of sovereign immunity only, a member of the Florida National Guard is not acting within the scope of state employment when performing duty under the provisions of Title 10 or Title 32 of the United States Code or other applicable federal law; and neither the state nor any individual may be named in any action under this chapter arising from the performance of such federal duty.

(d) The employing agency of a law enforcement officer as defined in s. 943.10 is not liable for injury, death, or property damage effected or caused by a person fleeing from a law enforcement officer in a motor vehicle if:

1. The pursuit is conducted in a manner that does not involve conduct by the officer which is so reckless or wanting in care as to constitute disregard of human life, human rights, safety, or the property of another;

2. At the time the law enforcement officer initiates the pursuit, the officer reasonably believes that the person fleeing

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477 has committed a forcible felony as defined in s. 776.08; and

478 3. The pursuit is conducted by the officer pursuant to a
479 written policy governing high-speed pursuit adopted by the
480 employing agency. The policy must contain specific procedures
481 concerning the proper method to initiate and terminate high-
482 speed pursuit. The law enforcement officer must have received
483 instructional training from the employing agency on the written
484 policy governing high-speed pursuit.

485 (10)(a)1. Health care providers or vendors, or any of
486 their employees or agents, that have contractually agreed to act
487 as agents of the Department of Corrections to provide health
488 care services to inmates of the state correctional system shall
489 be considered agents of the State of Florida, Department of
490 Corrections, for the purposes of this section, while acting
491 within the scope of and pursuant to guidelines established in
492 said contract or by rule. The contracts shall provide for the
493 indemnification of the state by the agent for any liabilities
494 incurred up to the limits set out in this chapter.

495 2.~~(b)~~ This paragraph ~~subsection~~ shall not be construed as
496 designating persons providing contracted health care services to
497 inmates as employees or agents of the state for the purposes of
498 chapter 440.

499 (b)~~(e)~~ For purposes of this section, regional poison
500 control centers created in accordance with s. 395.1027 and
501 coordinated and supervised under the Division of Children's
502 Medical Services Prevention and Intervention of the Department
503 of Health, or any of their employees or agents, shall be
504 considered agents of the State of Florida, Department of Health.

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Any contracts with poison control centers must provide, to the extent permitted by law, for the indemnification of the state by the agency for any liabilities incurred up to the limits set out in this chapter.

(c)~~(d)~~ For the purposes of this section, operators, dispatchers, and providers of security for rail services and rail facility maintenance providers in the South Florida Rail Corridor, or any of their employees or agents, performing such services under contract with and on behalf of the South Florida Regional Transportation Authority or the Department of Transportation shall be considered agents of the state while acting within the scope of and pursuant to guidelines established in said contract or by rule.

(d)~~(e)~~ For purposes of this section, a professional firm that provides monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm's employees performing such services, shall be considered agents of the Department of Transportation while acting within the scope of the firm's contract with the Department of Transportation to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions. Any contract between the professional firm and the state, to the extent permitted by law, shall provide for the indemnification of the department for any liability, including reasonable attorney's fees, incurred up to the limits set out in this chapter to the extent caused by the negligence of the firm or its employees. This paragraph shall not be construed as

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designating persons who provide monitoring and inspection services as employees or agents of the state for purposes of chapter 440. This paragraph is not applicable to the professional firm or its employees if involved in an accident while operating a motor vehicle. This paragraph is not applicable to a firm engaged by the Department of Transportation for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.

(e)~~(f)~~ For purposes of this section, any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, or any of its employees or agents, and which has agreed in an affiliation agreement or other contract to provide, or permit its employees or agents to provide, patient services as agents of a teaching hospital, is considered an agent of the teaching hospital while acting within the scope of and pursuant to guidelines established in the affiliation agreement or other contract. To the extent allowed by law, the contract must provide for the indemnification of the teaching hospital, up to the limits set out in this chapter, by the agent for any liability incurred which was caused by the negligence of the college or university or its employees or agents. The contract must also provide that those limited portions of the college, university, or medical school which are directly providing services pursuant to the contract and which are considered an agent of the teaching hospital for purposes of this section are deemed to be acting on behalf of a public agency as defined in

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s. 119.011(2).

1. For purposes of this paragraph, the term:

a. "Employee or agent" means an officer, employee, agent, or servant of a nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, including, but not limited to, the faculty of the medical school, any health care practitioner or licensee as defined in s. 456.001 for which the college or university is vicariously liable, and the staff or administrators of the medical school.

b. "Patient services" mean:

(I) Comprehensive health care services as defined in s. 641.19, including any related administrative service, provided to patients in a teaching hospital;

(II) Training and supervision of interns, residents, and fellows providing patient services in a teaching hospital; or

(III) Training and supervision of medical students in a teaching hospital.

c. "Teaching hospital" means a teaching hospital as defined in s. 408.07 which is owned or operated by the state, a county or municipality, a public health trust, a special taxing district, a governmental entity having health care responsibilities, or a not-for-profit entity that operates such facility as an agent of the state, or a political subdivision of the state, under a lease or other contract.

2. The teaching hospital or the medical school, or its employees or agents, must provide notice to each patient, or the patient's legal representative, that the college or university

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589 that owns or operates the medical school and the employees or
590 agents of that college or university are acting as agents of the
591 teaching hospital and that the exclusive remedy for injury or
592 damage suffered as the result of any act or omission of the
593 teaching hospital, the college or university that owns or
594 operates the medical school, or the employees or agents of the
595 college or university, while acting within the scope of duties
596 pursuant to the affiliation agreement or other contract with a
597 teaching hospital, is by commencement of an action pursuant to
598 the provisions of this section. This notice requirement may be
599 met by posting the notice in a place conspicuous to all persons.

600 3. This paragraph does not designate any employee
601 providing contracted patient services in a teaching hospital as
602 an employee or agent of the state for purposes of chapter 440.

603 (11) (a) Providers or vendors, or any of their employees or
604 agents, that have contractually agreed to act on behalf of the
605 state as agents of the Department of Juvenile Justice to provide
606 services to children in need of services, families in need of
607 services, or juvenile offenders are, solely with respect to such
608 services, agents of the state for purposes of this section while
609 acting within the scope of and pursuant to guidelines
610 established in the contract or by rule. A contract must provide
611 for the indemnification of the state by the agent for any
612 liabilities incurred up to the limits set out in this section
613 ~~chapter~~.

614 (b) This subsection does not designate a person who
615 provides contracted services to juvenile offenders as an
616 employee or agent of the state for purposes of chapter 440.

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(12) (a) A health care practitioner, as defined in s. 456.001(4), who has contractually agreed to act as an agent of a state university board of trustees to provide medical services to a student athlete for participation in or as a result of intercollegiate athletics, to include team practices, training, and competitions, shall be considered an agent of the respective state university board of trustees, for the purposes of this section, while acting within the scope of and pursuant to guidelines established in that contract. The contracts shall provide for the indemnification of the state by the agent for any liabilities incurred up to the limits set out in this chapter.

(b) This subsection shall not be construed as designating persons providing contracted health care services to athletes as employees or agents of a state university board of trustees for the purposes of chapter 440.

(13) Laws allowing the state or its agencies or political subdivisions to buy insurance are still in force and effect and are not restricted in any way by the terms of this section ~~act~~.

(14) Every claim against the state or one of its agencies or political subdivisions for damages for a negligent or wrongful act or omission pursuant to this section shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction within 4 years after such claim accrues; except that an action for contribution must be commenced within the limitations provided in s. 768.31(4), and an action for damages arising from medical malpractice or wrongful death must be commenced within the

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645 limitations for such actions in s. 95.11(4).

646 (15) No action may be brought against the state or any of
647 its agencies or political subdivisions by anyone who unlawfully
648 participates in a riot, unlawful assembly, public demonstration,
649 mob violence, or civil disobedience if the claim arises out of
650 such riot, unlawful assembly, public demonstration, mob
651 violence, or civil disobedience. Nothing in this section ~~act~~
652 shall abridge traditional immunities pertaining to statements
653 made in court.

654 (16)(a) The state and its agencies and political
655 subdivisions are authorized to be self-insured, to enter into
656 risk management programs, or to purchase liability insurance for
657 whatever coverage they may choose, or to have any combination
658 thereof, in anticipation of any claim, judgment, and claim
659 ~~claims~~ bill which they may be liable to pay pursuant to this
660 section. Agencies or political subdivisions, and sheriffs, that
661 are subject to homogeneous risks may purchase insurance jointly
662 or may join together as self-insurers to provide other means of
663 protection against tort claims, any charter provisions or laws
664 to the contrary notwithstanding.

665 (b) Claims files maintained by any risk management program
666 administered by the state, its agencies, and its political
667 subdivisions are confidential and exempt from the provisions of
668 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
669 until termination of all litigation and settlement of all claims
670 arising out of the same incident, although portions of the
671 claims files may remain exempt, as otherwise provided by law.
672 Claims files records may be released to other governmental

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673 agencies upon written request and demonstration of need; such
674 records held by the receiving agency remain confidential and
675 exempt as provided for in this paragraph.

676 (c) Portions of meetings and proceedings conducted
677 pursuant to any risk management program administered by the
678 state, its agencies, or its political subdivisions, which relate
679 solely to the evaluation of claims filed with the risk
680 management program or which relate solely to offers of
681 compromise of claims filed with the risk management program are
682 exempt from the provisions of s. 286.011 and s. 24(b), Art. I of
683 the State Constitution. Until termination of all litigation and
684 settlement of all claims arising out of the same incident,
685 persons privy to discussions pertinent to the evaluation of a
686 filed claim shall not be subject to subpoena in any
687 administrative or civil proceeding with regard to the content of
688 those discussions.

689 (d) Minutes of the meetings and proceedings of any risk
690 management program administered by the state, its agencies, or
691 its political subdivisions, which relate solely to the
692 evaluation of claims filed with the risk management program or
693 which relate solely to offers of compromise of claims filed with
694 the risk management program are exempt from the provisions of s.
695 119.07(1) and s. 24(a), Art. I of the State Constitution until
696 termination of all litigation and settlement of all claims
697 arising out of the same incident.

698 (17) This section, as amended by chapter 81-317, Laws of
699 Florida, shall apply only to causes of actions which accrue on
700 or after October 1, 1981.

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(18) No provision of this section, or of any other section of the Florida Statutes, whether read separately or in conjunction with any other provision, shall be construed to waive the immunity of the state or any of its agencies from suit in federal court, as such immunity is guaranteed by the Eleventh Amendment to the Constitution of the United States, unless such waiver is explicitly and definitely stated to be a waiver of the immunity of the state and its agencies from suit in federal court. This subsection shall not be construed to mean that the state has at any time previously waived, by implication, its immunity, or that of any of its agencies, from suit in federal court through any statute in existence prior to June 24, 1984.

(19) Neither the state nor any agency or political subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into a contractual relationship with another agency or political subdivision of the state. Such a contract must not contain any provision that requires one party to indemnify or insure the other party for the other party's negligence or to assume any liability for the other party's negligence. This does not preclude a party from requiring a nongovernmental entity to provide such indemnification or insurance. The restrictions of this subsection do not prevent a regional water supply authority from indemnifying and assuming the liabilities of its member governments for obligations arising from past acts or omissions at or with property acquired from a member government by the authority and arising from the acts or omissions of the authority in performing activities contemplated by an interlocal

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729 agreement. Such indemnification may not be considered to
730 increase or otherwise waive the limits of liability to third-
731 party claimants established by this section.

732 (20) Every political subdivision ~~municipality~~, and any
733 agency thereof, is authorized to undertake to indemnify those
734 employees that are exposed to personal liability pursuant to the
735 Clean Air Act Amendments of 1990, 42 U.S.C.A. ss. 7401 et seq.,
736 and all rules and regulations adopted to implement that act, for
737 acts performed within the course and scope of their employment
738 with the political subdivision ~~municipality~~ or its agency,
739 including but not limited to indemnification pertaining to the
740 holding, transfer, or disposition of allowances allocated to the
741 political subdivision's ~~municipality's~~ or its agency's electric
742 generating units, and the monitoring, submission, certification,
743 and compliance with permits, permit applications, records,
744 compliance plans, and reports for those units, when such acts
745 are performed within the course and scope of their employment
746 with the political subdivision ~~municipality~~ or its agency. The
747 authority to indemnify under this section covers every act by an
748 employee when such act is performed within the course and scope
749 of her or his employment with the political subdivision
750 ~~municipality~~ or its agency, but does not cover any act of
751 willful misconduct or any intentional or knowing violation of
752 any law by the employee. The authority to indemnify under this
753 section includes, but is not limited to, the authority to pay
754 any fine and provide legal representation in any action.

755 Section 7. If any provision of this act or the application
756 thereof to any person or circumstance is held invalid, the

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757 invalidity does not affect other provisions or applications of
758 the act which can be given effect without the invalid provision
759 or application, and to this end the provisions of this act are
760 declared severable.

761 Section 8. The amendments made by this act to s. 768.28,
762 Florida Statutes, apply to causes of action filed on or after
763 the effective date of this act.

764 Section 9. This act shall take effect October 1, 2013.