



STORAGE NAME: h3511.CJS
DATE: 4/3/2015

**Florida House of Representatives
Summary Claim Bill Report**

Bill #: HB 3511; Relief/Carl Abbott/Palm Beach County School Board
Sponsor: Raburn
Companion Bill: CS/SB 68 by Judiciary, Legg
Special Master: Parker Aziz

Basic Information:

Claimants:	David Abbott, executor of estate of Carl Abbott
Respondent:	Palm Beach County School Board
Amount Requested:	<p>\$1,900,000; to be made in payments of \$211,111.111 each fiscal year beginning in 2015 through 2022, inclusive, and \$211,111.12 in the 2023-2024 fiscal year.</p> <p>However, if Carl Abbott dies before the last payment was made, David Abbott as son, guardian and survivor of Carl Abbott is guaranteed a minimum payment of \$633,333.33 in three annual payments.</p>
Type of Claim:	Local equitable claim; result of a settlement agreement
Respondent's Position:	The Palm Beach County School Board does not oppose the enactment of this claim bill.
Collateral Sources:	None reported.
Attorney's/Lobbying Fees:	<p>The claimant's attorney provided an affidavit stating that the attorney's fees will be capped at 25% of the total claim award in accordance with s. 768.28(8), F.S., and that the lobbyist's fees, if any, will be included in the 25% fee cap.</p> <p>Notwithstanding the attorney's affidavit, the bill specifically provides that the total amount paid for attorney fees, lobbying fees, costs, and similar expenses relating to the claim may not exceed 25% of the total awarded under the bill.</p>

Prior Legislative History:

House Bill 1487 by Representative Workman and Senate Bill 70 by Senator Negron were filed during the 2011 Legislative Session. The House Bill passed its only committee of reference (Civil Justice), passed the full House, but died in Messages. The Senate Bill passed its only committee of reference (Rules) but died on the Calendar.

House Bill 855 by Representative Workman and Senate Bill 54 by Senator Negron were filed during the 2012 Legislative Session. The House Bill passed its committees of reference (Civil Justice and Judiciary), passed the full House, passed the Senate as amended, and passed the House again, but died in Messages. The Senate Bill passed its only committee of reference (Rules), and was laid on the table in lieu of the House Bill.

House Bill 1167 by Representative Raburn and Senate Bill 22 by Senator Negron were filed during the 2013 Legislative Session. The House Bill passed its committees of reference (Select Committee on Claim Bills and Judiciary) but died on the House Calendar. The Senate Bill was never considered in its committees of reference.

House Bill 3529 by Representative Raburn and Senate Bill 56 by Senator Legg were filed during the 2014 Legislative Session. The House bill passed its committees of reference (Civil Justice and Judiciary), passed the full House but died in Messages. The Senate Bill was never considered in its committees of reference.

Procedural Summary: David Abbott, the son and guardian of Carl Abbott, brought suit in 2008 claiming negligence against the School Board of Palm Beach County. The action was filed in the 15th Judicial Circuit Court, in and for Palm Beach County, Florida.

Prior to trial, the parties came to an agreement through mediation to settle the case for \$2 million, \$100,000 of which the School Board has already paid. Pursuant to the settlement agreement, the \$1.9 million balance will be paid in eight yearly installments of \$211,111.11, plus a ninth and final annual payment of \$211,111.12. These yearly payments will commence on the effective date of the claim bill, and continue for nine years, or until Mr. Abbott's death, whichever first occurs. The School Board has agreed, however, to make at least three years' worth of payments, guaranteeing a minimum payout of \$633,333.33. Out of the \$100,000 settlement proceeds he has already received, Mr. Abbott paid \$25,000 in attorney's fees and, after paying some expenses, netted \$51,905.65.

Facts of Case: On June 30, 2008, at about 2:00 p.m., Carl Abbott, then 68 years old, started to walk across U.S. Highway 1 at the intersection with South Anchorage Drive in North Palm Beach, Florida. Mr. Abbott was heading west from the northeast quadrant of the intersection, toward the intersection's northwest quadrant. To get to the other side of U. S. Highway 1, which runs north and south, Mr. Abbott needed to cross the highway's three northbound lanes, a median, the southbound left turn lane, and the three southbound travel lanes. Mr. Abbott remained within the marked pedestrian crosswalk.

At the time Mr. Abbott began to cross U.S. Highway 1, a school bus was idling in the eastbound left-

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turn lane on South Anchorage Drive, waiting for the green light. The bus driver, Generia Bedford, intended to turn left and proceed north on U.S. Highway 1. When the light changed, Ms. Bedford drove the bus eastward through the intersection and turned left, as planned, heading northward. She did not see Mr. Abbott, who was in the center northbound lane of U.S. Highway 1, until it was too late. The school bus struck Mr. Abbott and knocked him to the ground. He sustained a serious, traumatic brain injury in the accident.

Mr. Abbott received cardiopulmonary resuscitation at the scene and was rushed to St. Mary's Medical Center, where he was placed on a ventilator. A cerebral shunt was placed to decrease intracranial pressure. After two months, Mr. Abbott was discharged with the following diagnoses: traumatic brain injury, pulmonary contusions, intracranial hemorrhage, subdural hematoma, and paralysis.

In June of 2014, Mr. Abbott died. Prior to his passing, Mr. Abbott resided in a nursing home. As a result of the brain injury, he was unable to talk, walk, or take care of himself. He was alert but had significant cognitive impairments. Mr. Abbott had neurogenic bladder and bowels and hence was incontinent. He could not perform any activities of daily living and needed constant, total care.

Based on the Life Care Plan prepared by Stuart B. Krost, M.D., Mr. Abbott's future medical needs, assuming a life expectancy of 78 years, were projected to cost about \$4 million, before a reduction to present value. The School Board is self-insured and will pay the balance of the agreed sum out of its General Fund, which was the source of revenue used to satisfy the initial commitment of \$100,000.

Recommendation: The bill needs to be amended to reflect the death of Carl Abbott. The settlement agreement provides that any payment following Carl Abbott's death would be \$633,333.33 in annual installments over three years to David Abbott, who was Carl Abbott's son and legal guardian following the accident.

With the suggested changes, I respectfully recommend House Bill 3511 by reported **FAVORABLY**

Parker Aziz, Special Master

Date: April 3, 2015

cc: Representative Raburn, House Sponsor
Senator Legg, Senate Sponsor
Jason Hand, Senate Special Master