

HB 1129

2021

1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; increasing the statutory limits on
4 liability for tort claims against the state and its
5 agencies and subdivisions; requiring that the
6 limitations on tort liability be adjusted every year
7 by a specified indicator after a specified date;
8 providing an effective date.

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

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

14 768.28 Waiver of sovereign immunity in tort actions;
15 recovery limits; limitation on attorney fees; statute of
16 limitations; exclusions; indemnification; risk management
17 programs.—

18 (5) (a) The state and its agencies and subdivisions shall
19 be liable for tort claims in the same manner and to the same
20 extent as a private individual under like circumstances, but
21 liability shall not include punitive damages or interest for the
22 period before judgment. Neither the state nor its agencies or
23 subdivisions shall be liable to pay a claim or a judgment by any
24 one person which exceeds the sum of \$500,000 ~~\$200,000~~ or any
25 claim or judgment, or portions thereof, which, when totaled with

26 | all other claims or judgments paid by the state or its agencies
 27 | or subdivisions arising out of the same incident or occurrence,
 28 | exceeds the sum of \$1 million ~~\$300,000~~. However, a judgment or
 29 | judgments may be claimed and rendered in excess of these amounts
 30 | and may be settled and paid pursuant to this act up to \$500,000
 31 | ~~\$200,000~~ or \$1 million ~~\$300,000~~, as the case may be; and that
 32 | portion of the judgment that exceeds these amounts may be
 33 | reported to the Legislature, but may be paid in part or in whole
 34 | only by further act of the Legislature.

35 | **(b)** Notwithstanding the limited waiver of sovereign
 36 | immunity provided herein, the state or an agency or subdivision
 37 | thereof may agree, within the limits of insurance coverage
 38 | provided, to settle a claim made or a judgment rendered against
 39 | it without further action by the Legislature, but the state or
 40 | agency or subdivision thereof shall not be deemed to have waived
 41 | any defense of sovereign immunity or to have increased the
 42 | limits of its liability as a result of its obtaining insurance
 43 | coverage for tortious acts in excess of the \$500,000 ~~\$200,000~~ or
 44 | \$1 million ~~\$300,000~~ waiver provided above.

45 | **(c)** The limitations of liability set forth in this
 46 | subsection shall apply to the state and its agencies and
 47 | subdivisions whether or not the state or its agencies or
 48 | subdivisions possessed sovereign immunity before July 1, 1974.

49 | **(d)** When determining liability limits for a claim, the
 50 | limitations of liability in effect on the date a final judgment

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51 is entered shall apply to the claim.

52 (e) Beginning July 1, 2022, and every July 1 thereafter,
53 the limitations of liability in this subsection must be adjusted
54 to reflect changes in the Consumer Price Index for the Southeast
55 or a successor index as calculated by the United States
56 Department of Labor.

57 Section 2. This act shall take effect July 1, 2021.