By Senator Gruters

A bill to be entitled An act relating to sovereign immunity; amending s. 768.28, F.S.; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; prohibiting an insurance policy from conditioning payment of benefits on the enactment of a claim bill; specifying that the limitations in effect on the date a final judgment is entered apply to that claim; requiring the Department of Financial Services to adjust the limitations on tort liability every year after a specified date; revising exceptions relating to instituting actions on claims against the state or one of its agencies and to the statute of limitations for such claims; reenacting ss. 45.061, 110.504, 111.071, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056, 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. Be It Enacted by the Legislature of the State of Florida:		22-00536A-23 2023604
 768.28, F.S.; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; prohibiting an insurance policy from conditioning payment of benefits on the enactment of a claim bill; specifying that the limitations in effect on the date a final judgment is entered apply to that claim; requiring the Department of Financial Services to adjust the limitations on tort liability every year after a specified date; revising exceptions relating to instituting actions on claims against the state or one of its agencies and to the statute of limitations for such claims; reenacting ss. 45.061, 110.504, 111.071, 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056, 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. 	1	A bill to be entitled
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<pre>16 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31, 17 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 18 381.0056, 393.075, 395.1055, 403.706, 409.993, 19 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 22 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. 27 28 Be It Enacted by the Legislature of the State of Florida:</pre>	14	the statute of limitations for such claims; reenacting
<pre>17 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 18 381.0056, 393.075, 395.1055, 403.706, 409.993, 19 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. 27 28 Be It Enacted by the Legislature of the State of Florida:</pre>	15	ss. 45.061, 110.504, 111.071, 163.01, 190.043,
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19 455.221, 455.32, 456.009, 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. 27 28 Be It Enacted by the Legislature of the State of Florida:	17	284.38, 322.13, 337.19, 341.302, 373.1395, 375.251,
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21 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. 27 28 Be It Enacted by the Legislature of the State of Florida:	19	455.221, 455.32, 456.009, 456.076, 471.038, 472.006,
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1002.333, 1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to incorporate the amendments made to s. 768.28, F.S., in references thereto; providing applicability; providing an effective date. Be It Enacted by the Legislature of the State of Florida:	21	723.0611, 760.11, 766.1115, 766.112, 768.1355,
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<pre>26 applicability; providing an effective date. 27 28 Be It Enacted by the Legislature of the State of Florida:</pre>	24	and 1006.261, F.S., to incorporate the amendments made
27 28 Be It Enacted by the Legislature of the State of Florida:	25	
28 Be It Enacted by the Legislature of the State of Florida:	26	applicability; providing an effective date.
29		Be It Enacted by the Legislature of the State of Florida:
	29	

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22-00536A-23 2023604 30 Section 1. Subsection (5), paragraph (a) of subsection (6), 31 and subsection (14) of section 768.28, Florida Statutes, are 32 amended to read: 33 768.28 Waiver of sovereign immunity in tort actions; 34 recovery limits; civil liability for damages caused during a 35 riot; limitation on attorney fees; statute of limitations; 36 exclusions; indemnification; risk management programs.-37 (5) (a) The state and its agencies and subdivisions shall be 38 liable for tort claims in the same manner and to the same extent 39 as a private individual under like circumstances, but liability 40 shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or 41 42 subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$400,000 \$200,000 or any 43 44 claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies 45 46 or subdivisions arising out of the same incident or occurrence, 47 exceeds the sum of \$600,000 \$300,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts 48 49 and may be settled and paid pursuant to this act up to \$400,000 or \$600,000 \$200,000 or \$300,000, as the case may be; and that 50 51 portion of the judgment that exceeds these amounts may be 52 reported to the Legislature, and but may be paid in part or in 53 whole only by further act of the Legislature. 54 (b) Notwithstanding the limited waiver of sovereign

54 (b) Notwithstanding the limited walver of sovereign 55 immunity provided <u>in paragraph (a)</u> herein, the state or an 56 agency or subdivision thereof may agree, within the limits of 57 insurance coverage provided, to settle a claim made or a 58 judgment rendered against it <u>in excess of the waiver provided in</u>

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59	paragraph (a) without further action by the Legislature, but the
60	state or agency or subdivision thereof shall not be deemed to
61	have waived any defense of sovereign immunity or to have
62	increased the limits of its liability as a result of its
63	obtaining insurance coverage for tortious acts in excess of the
64	\$200,000 or \$300,000 waiver provided in paragraph (a). An
65	insurance policy may not condition the payment of benefits, in
66	whole or in part, on the enactment of a claim bill above.
67	(c) The limitations of liability set forth in this
68	subsection shall apply to the state and its agencies and
69	subdivisions whether or not the state or its agencies or
70	subdivisions possessed sovereign immunity before July 1, 1974.
71	<u>(d)</u> A municipality has a duty to allow the municipal law
72	enforcement agency to respond appropriately to protect persons
73	and property during a riot or an unlawful assembly based on the
74	availability of adequate equipment to its municipal law
75	enforcement officers and relevant state and federal laws. If the
76	governing body of a municipality or a person authorized by the
77	governing body of the municipality breaches that duty, the
78	municipality is civilly liable for any damages, including
79	damages arising from personal injury, wrongful death, or
80	property damages proximately caused by the municipality's breach
81	of duty. The sovereign immunity recovery limits in paragraph (a)
82	do not apply to an action under this paragraph.
83	(e) When determining liability limits for a claim, the
84	limitations of liability in effect on the date a final judgment
85	is entered shall apply to the claim.
86	(f) Beginning July 1, 2024, and every July 1 thereafter,
87	the Department of Financial Services shall adjust the

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88	limitations of liability in this subsection to reflect changes
89	in the Consumer Price Index for the Southeast or a successor
90	index as calculated by the United States Department of Labor.
91	(6)(a) An action may not be instituted on a claim against
92	the state or one of its agencies or subdivisions unless the
93	claimant presents the claim in writing to the appropriate
94	agency, and also, except as to any claim against a municipality,
95	county, or the Florida Space Authority, presents such claim in
96	writing to the Department of Financial Services, within 3 years
97	after such claim accrues and the Department of Financial
98	Services or the appropriate agency denies the claim in writing;
99	except that, if:
100	1. Such claim is for contribution pursuant to s. 768.31, it
101	must be so presented within 6 months after the judgment against
102	the tortfeasor seeking contribution has become final by lapse of
103	time for appeal or after appellate review or, if there is no
104	such judgment, within 6 months after the tortfeasor seeking
105	contribution has either discharged the common liability by
106	payment or agreed, while the action is pending against her or
107	him, to discharge the common liability; or
108	2. Such action is for wrongful death, the claimant must
109	present the claim in writing to the Department of Financial
110	Services within 2 years after the claim accrues <u>; or</u>
111	3. Such action arises from a violation of s. 794.011
112	involving a victim who was younger than the age of 16 at the
113	time of the act, the claimant may present the claim in writing
114	at any time pursuant to s. 95.11(9).
115	(14) Every claim against the state or one of its agencies
116	or subdivisions for damages for a negligent or wrongful act or

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117	omission pursuant to this section shall be forever barred unless
118	the civil action is commenced by filing a complaint in the court
119	of appropriate jurisdiction within 4 years after such claim
120	accrues; except that:
121	(a) An action for contribution must be commenced within the
122	limitations provided in s. 768.31(4);, and
123	(b) An action for damages arising from medical malpractice
124	or wrongful death must be commenced within the limitations for
125	such actions in s. 95.11(4); and
126	(c) An action arising from acts constituting a violation of
127	s. 794.011 involving a victim who was younger than the age of 16
128	at the time of the act may be commenced at any time pursuant to
129	<u>s. 95.11(9)</u> .
130	Section 2. <u>Sections 45.061, 110.504, 111.071, 163.01,</u>
131	<u>190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,</u>
132	<u>284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,</u>
133	<u>393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,</u>
134	<u>456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,</u>
135	<u>589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355,</u>
136	<u>768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333,</u>
137	1002.34, 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261,
138	Florida Statutes, are reenacted for the purpose of incorporating
139	the amendments made by this act to s. 768.28, Florida Statutes,
140	in references thereto.
141	Section 3. This act applies to claims accruing on or after
142	<u>October 1, 2023.</u>
143	Section 4. This act shall take effect October 1, 2023.

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