

By the Committees on Appropriations; and Governmental Oversight and Accountability; and Senators Brodeur and Rouson

576-03645-24

2024472c2

1 A bill to be entitled
2 An act relating to suits against the government;
3 amending s. 768.28, F.S.; increasing the statutory
4 limits on liability for tort claims against the state
5 and its agencies and subdivisions; prohibiting
6 insurance policies from placing conditions for payment
7 upon the enactment of a claim bill; authorizing a
8 subdivision of the state to settle a claim in excess
9 of the statutory limit without further action by the
10 Legislature regardless of insurance coverage limits;
11 prohibiting a party from lobbying against any agreed
12 upon settlement brought to the Legislature as a claim
13 bill; specifying that the limitations in effect on the
14 date when the claim incident occurred apply to a
15 settled claim; requiring the Department of Financial
16 Services, beginning on a specified date and every 5
17 years thereafter, to adjust the limitations of
18 liability for claims, not to exceed a certain
19 percentage for each such adjustment; revising the
20 period within which certain claims must be presented
21 to certain entities; revising exceptions relating to
22 instituting actions on tort claims against the state
23 or one of its agencies or subdivisions; revising the
24 period after which the failure of certain entities to
25 make final disposition of a claim shall be deemed a
26 final denial of the claim for certain purposes;
27 revising the statute of limitations for tort claims
28 against the state or one of its agencies or
29 subdivisions and exceptions thereto; providing a

576-03645-24

2024472c2

30 claimant a specific timeframe to file suit; reenacting
31 ss. 45.061, 110.504, 111.071, 125.01015, 163.01,
32 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125,
33 284.31, 284.38, 322.13, 337.19, 341.302, 351.03,
34 373.1395, 375.251, 381.0056, 393.075, 394.9085,
35 395.1055, 403.706, 409.175, 409.993, 420.504, 420.507,
36 455.221, 455.32, 456.009, 456.076, 471.038, 472.006,
37 497.167, 513.118, 548.046, 556.106, 589.19, 627.7491,
38 723.0611, 760.11, 766.1115, 766.112, 768.1355,
39 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06,
40 1002.33, 1002.333, 1002.34, 1002.351, 1002.37,
41 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261,
42 F.S., to incorporate the amendments made to s. 768.28,
43 F.S., in references thereto; providing applicability;
44 providing an effective date.

45

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

47

48 Section 1. Subsection (5), paragraphs (a) and (d) of
49 subsection (6), and subsection (14) of section 768.28, Florida
50 Statutes, are amended to read:

51 768.28 Waiver of sovereign immunity in tort actions;
52 recovery limits; civil liability for damages caused during a
53 riot; limitation on attorney fees; statute of limitations;
54 exclusions; indemnification; risk management programs.—

55 (5) (a) The state and its agencies and subdivisions shall be
56 liable for tort claims in the same manner and to the same extent
57 as a private individual under like circumstances, but liability
58 shall not include punitive damages or interest for the period

576-03645-24

2024472c2

59 before judgment. Neither the state nor its agencies or
60 subdivisions shall be liable to pay a claim or a judgment by any
61 one person which exceeds the sum of \$400,000 ~~\$200,000~~ or any
62 claim or judgment, or portions thereof, which, when totaled with
63 all other claims or judgments paid by the state or its agencies
64 or subdivisions arising out of the same incident or occurrence,
65 exceeds the sum of \$600,000 ~~\$300,000~~. However, a judgment or
66 judgments may be claimed and rendered in excess of these amounts
67 ~~and may be settled~~ and paid pursuant to this act up to \$400,000
68 or \$600,000 ~~\$200,000 or \$300,000~~, as the case may be; and that
69 portion of the judgment that exceeds these amounts may be
70 reported to the Legislature, and ~~but~~ may be paid in part or in
71 whole ~~only~~ by further act of the Legislature.

72 (b) Notwithstanding the limited waiver of sovereign
73 immunity provided in paragraph (a):

74 1. herein, The state or an agency ~~or subdivision~~ thereof
75 may agree, within the limits of insurance coverage provided, to
76 settle a claim made or a judgment rendered against it in excess
77 of the waiver provided in paragraph (a) without further action
78 by the Legislature.

79 2. A subdivision of the state may agree to settle a claim
80 made or a judgment rendered against it in excess of the waiver
81 provided in paragraph (a) without further action by the
82 Legislature.

83
84 However, ~~but~~ the state or an agency or subdivision thereof shall
85 not be deemed to have waived any defense of sovereign immunity
86 or to have increased the limits of its liability as a result of
87 its obtaining insurance coverage for tortious acts in excess of

576-03645-24

2024472c2

88 the ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a).
89 However, a party may not lobby against any agreed upon
90 settlement brought to the Legislature as a settled claim bill
91 above. An insurance policy may not condition the payment of
92 benefits, in whole or in part, on the enactment of a claim bill.

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

97 (d)-~~(b)~~ A municipality has a duty to allow the municipal law
98 enforcement agency to respond appropriately to protect persons
99 and property during a riot or an unlawful assembly based on the
100 availability of adequate equipment to its municipal law
101 enforcement officers and relevant state and federal laws. If the
102 governing body of a municipality or a person authorized by the
103 governing body of the municipality breaches that duty, the
104 municipality is civilly liable for any damages, including
105 damages arising from personal injury, wrongful death, or
106 property damages proximately caused by the municipality's breach
107 of duty. The sovereign immunity recovery limits in paragraph (a)
108 do not apply to an action under this paragraph.

109 (e) When determining liability limits for a claim, the
110 limitations of liability in effect on the date when the claim
111 incident occurred apply to the settled claim.

112 (f) Beginning July 1, 2029, and on July 1 every 5 years
113 thereafter, the Department of Financial Services shall adjust
114 the limitations of liability in this subsection to reflect
115 changes in the Consumer Price Index for the Southeast or a
116 successor index as calculated by the United States Department of

576-03645-24

2024472c2

117 Labor, not to exceed 3 percent for any such adjustment.

118 (6) (a) An action may not be instituted on a claim against
119 the state or one of its agencies or subdivisions unless the
120 claimant presents the claim in writing to the appropriate
121 agency, and also, except as to any claim against a municipality,
122 county, or the Florida Space Authority, presents such claim in
123 writing to the Department of Financial Services, within 18
124 months ~~3 years~~ after such claim accrues and the Department of
125 Financial Services or the appropriate agency denies the claim in
126 writing; except that, if:

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

135 2. Such action arises from a violation of s. 794.011
136 involving a victim who was younger than 16 years of age at the
137 time of the act, the claimant may present the claim in writing
138 at any time pursuant to s. 95.11(9) ~~is for wrongful death, the~~
139 ~~claimant must present the claim in writing to the Department of~~
140 ~~Financial Services within 2 years after the claim accrues.~~

141 (d) For purposes of this section, complete, accurate, and
142 timely compliance with the requirements of paragraph (c) shall
143 occur prior to settlement payment, close of discovery or
144 commencement of trial, whichever is sooner; provided the ability
145 to plead setoff is not precluded by the delay. This setoff shall

576-03645-24

2024472c2

146 apply only against that part of the settlement or judgment
147 payable to the claimant, minus claimant's reasonable attorney's
148 fees and costs. Incomplete or inaccurate disclosure of unpaid
149 adjudicated claims due the state, its agency, officer, or
150 subdivision, may be excused by the court upon a showing by the
151 preponderance of the evidence of the claimant's lack of
152 knowledge of an adjudicated claim and reasonable inquiry by, or
153 on behalf of, the claimant to obtain the information from public
154 records. Unless the appropriate agency had actual notice of the
155 information required to be disclosed by paragraph (c) in time to
156 assert a setoff, an unexcused failure to disclose shall, upon
157 hearing and order of court, cause the claimant to be liable for
158 double the original undisclosed judgment and, upon further
159 motion, the court shall enter judgment for the agency in that
160 amount. Except as provided otherwise in this subsection, the
161 failure of the Department of Financial Services or the
162 appropriate agency to make final disposition of a claim within 4
163 ~~6~~ months after it is filed shall be deemed a final denial of the
164 claim for purposes of this section. For purposes of this
165 subsection, in medical malpractice actions and in wrongful death
166 actions, the failure of the Department of Financial Services or
167 the appropriate agency to make final disposition of a claim
168 within 90 days after it is filed shall be deemed a final denial
169 of the claim. The statute of limitations ~~for medical malpractice~~
170 ~~actions and wrongful death actions~~ is tolled as to all
171 prospective defendants for the period of time taken by the
172 Department of Financial Services or the appropriate agency to
173 deny the claim. The claimant has 60 days from the date of the
174 Department of Financial Services' or the appropriate agency's

576-03645-24

2024472c2

175 final disposition of a claim or the date at which final denial
176 of the claim is deemed to have occurred, or the remainder of the
177 period of the statute of limitations, whichever is greater,
178 within which to file suit. The provisions of this subsection do
179 not apply to such claims as may be asserted by counterclaim
180 pursuant to s. 768.14.

181 (14) Every claim against the state or one of its agencies
182 or subdivisions for damages for a negligent or wrongful act or
183 omission pursuant to this section shall be forever barred unless
184 the civil action is commenced by filing a complaint in the court
185 of appropriate jurisdiction:

186 (a) Within 2 4 years for an action founded on negligence.

187 (b) Within the limitations provided in s. 768.31(4) for an
188 action for contribution.

189 (c) Within the limitations provided in s. 95.11(4) for an
190 action for damages arising from medical malpractice or wrongful
191 death.

192 (d) At any time for an action arising from acts
193 constituting a violation of s. 794.011 involving a victim who
194 was younger than 16 years of age pursuant to s. 95.11(9).

195 (e) Within 4 years for any other action not specified in
196 this subsection after such claim accrues; except that an action
197 for contribution must be commenced within the limitations
198 provided in s. 768.31(4), and an action for damages arising from
199 medical malpractice or wrongful death must be commenced within
200 the limitations for such actions in s. 95.11(4).

201 Section 2. Sections 45.061, 110.504, 111.071, 125.01015,
202 163.01, 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125,
203 284.31, 284.38, 322.13, 337.19, 341.302, 351.03, 373.1395,

576-03645-24

2024472c2

204 375.251, 381.0056, 393.075, 394.9085, 395.1055, 403.706,
205 409.175, 409.993, 420.504, 420.507, 455.221, 455.32, 456.009,
206 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,
207 589.19, 627.7491, 723.0611, 760.11, 766.1115, 766.112, 768.1355,
208 768.1382, 768.295, 944.713, 946.5026, 946.514, 961.06, 1002.33,
209 1002.333, 1002.34, 1002.351, 1002.37, 1002.55, 1002.83, 1002.88,
210 1006.24, and 1006.261, Florida Statutes, are reenacted for the
211 purpose of incorporating the amendments made by this act to s.
212 768.28, Florida Statutes, in references thereto.

213 Section 3. This act applies to claims accruing on or after
214 October 1, 2024.

215 Section 4. This act shall take effect October 1, 2024.