

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; authorizing a  
6     subdivision of the state to settle a claim in excess  
7     of the statutory limit without further action by the  
8     Legislature regardless of insurance coverage limits;  
9     prohibiting an insurance policy from conditioning  
10    payment of benefits on the enactment of a claim bill;  
11    specifying that the limitations in effect on the date  
12    the claim accrues apply to that claim; revising the  
13    period within which certain claims must be presented  
14    to certain entities; revising exceptions relating to  
15    instituting actions on tort claims against the state  
16    or one of its agencies or subdivisions; revising the  
17    period after which the failure of certain entities to  
18    make final disposition of a claim shall be deemed a  
19    final denial of the claim for certain purposes;  
20    revising the statute of limitations for tort claims  
21    against the state or one of its agencies or  
22    subdivisions and exceptions thereto; providing  
23    applicability; amending s. 944.713, conforming  
24    provisions to changes made by the act; reenacting ss.  
25    45.061(5), 110.504(4), 111.071(1)(a), 125.01015(2)(b),

163.01(3)(h) and (15)(k), 190.043, 213.015(13),  
252.51, 252.89, 252.944, 260.0125(2), 284.31, 284.38,  
322.13(1)(b), 337.19(1), 341.302(17), 351.03(4)(c),  
373.1395(6), 375.251(3)(a), 381.0056(9), 393.075(3),  
394.9085(7), 395.1055(10)(g), 403.706(17)(c),  
409.175(15)(b), s. 409.993(1)(a) and (b), (2)(a), and  
(3)(a), 420.504(8), 455.221(3), 455.32(5), 456.009(3),  
456.076(15)(a), 471.038(3), 472.006(11)(b),  
497.167(7), 513.118(2), 548.046(1), s. 556.106(8),  
589.19(4)(e), 627.7491(3) and (4), 723.0611(2)(c),  
760.11(5), 766.1115(4), 766.112(2), 768.1355(3),  
768.1382(7), 768.295(4), 946.5026, 946.514(3),  
961.06(5), (6)(a), and (7), 1002.33(12)(h),  
1002.333(6)(b), 1002.34(17), 1002.351(3)(c),  
1002.37(2), 1002.55(3)(1), 1002.83(10), 1002.88(1)(p),  
1006.24(1), and 1006.261(2)(b), F.S., relating to  
offers of settlement, volunteer benefits, payment of  
judgments or settlements against certain public  
officers or employees, office of the sheriff, the  
Florida Interlocal Cooperation Act of 1969, suits  
against community development districts, taxpayer  
rights, liability, tort liability, tort liability,  
limitation on liability of private landowners whose  
property is designated as part of the statewide system  
of greenways and trail, scope and types of coverages,

51       waiver of sovereign immunity, driver license  
52       examiners, suits by and against the Department of  
53       Transportation, rail program, railroad-highway grade-  
54       crossing warning signs and signals, limitation on  
55       liability of water management district with respect to  
56       areas made available to the public for recreational  
57       purposes without charge, limitation on liability of  
58       persons making available to public certain areas for  
59       recreational purposes without charge, school health  
60       services program, general liability coverage,  
61       behavioral provider liability, rules and enforcement,  
62       local government solid waste responsibilities,  
63       licensure of family foster homes, residential child-  
64       caring agencies, and child-placing agencies, lead  
65       agencies and subcontractor liability, the Florida  
66       Housing Finance Corporation, legal and investigative  
67       services, the Management Privatization Act, legal and  
68       investigative services, impaired practitioner  
69       programs, the Florida Engineers Management  
70       Corporation, the Department of Agriculture and  
71       Consumer Services, administrative matters, conduct on  
72       premises; refusal of service, physician's attendance  
73       at match, liability of the member operator, excavator,  
74       and system, creation of certain state forests; naming  
75       of certain state forests; Operation Outdoor Freedom

76        Program, official law enforcement vehicles; motor  
77        vehicle insurance requirements, the Florida Mobile  
78        Home Relocation Corporation, administrative and civil  
79        remedies; construction, health care providers;  
80        creation of agency relationship with governmental  
81        contractors, comparative fault, the Florida Volunteer  
82        Protection Act, streetlights, security lights, and  
83        other similar illumination, Strategic Lawsuits Against  
84        Public Participation (SLAPP), sovereign immunity in  
85        tort actions, inmates not state employees,  
86        compensation for wrongful incarceration, charter  
87        schools, persistently low-performing schools, charter  
88        technical career centers, the Florida School for  
89        Competitive Academics, the Florida Virtual School,  
90        school-year prekindergarten program delivered by  
91        private prekindergarten providers, Early learning  
92        coalitions, school readiness program provider  
93        standards, tort liability; liability insurance, and  
94        use of school buses for public purposes, respectively,  
95        to incorporate changes made by the act; providing an  
96        effective date.

97  
98        Be It Enacted by the Legislature of the State of Florida:

99  
100        **Section 1.   Subsection (5), paragraphs (a) and (d) of**

**subsection (6), and subsection (14) of section 768.28, Florida Statutes, are amended to read:**

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

(5) (a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment that ~~by any one person which~~ exceeds the limits in paragraph (b).

(b)1. If the cause of action accrued before October 1, 2025, the limitations are as follows:

a. For a claim or judgment by any one person, \$200,000.

b. For multiple claims or judgments, or portions thereof, which arise out of the same incident or occurrence, a total of \$300,000.

2. If the cause of action accrued on or after October 1, 2025, but before October 1, 2030, the limitations are as follows:

a. For a claim or judgment by any one person, \$500,000.

b. For multiple claims or judgments, or portions thereof, which arise out of the same incident or occurrence, a total of

126 \$1 million.

127 3. If the cause of action accrued on or after October 1,  
128 2030, the limitations are as follows:

129 a. For a claim or judgment by any one person, \$600,000.

130 b. For multiple claims or judgments, or portions thereof,  
131 which arise out of the same incident or occurrence, a total of  
132 \$1.1 million ~~sum of \$200,000 or any claim or judgment, or~~  
133 ~~portions thereof, which, when totaled with all other claims or~~  
134 ~~judgments paid by the state or its agencies or subdivisions~~  
135 ~~arising out of the same incident or occurrence, exceeds the sum~~  
136 ~~of \$300,000.~~

137 (c) However, a judgment or judgments may be claimed and  
138 rendered in excess of these amounts ~~and may be settled~~ and paid  
139 pursuant to this act up to the limitations provided under  
140 paragraph (b) ~~\$200,000 or \$300,000~~, as the case may be; and that  
141 portion of the judgment that exceeds these amounts may be  
142 reported to the Legislature, and ~~but~~ may be paid in part or in  
143 whole ~~only~~ by further act of the Legislature.

144 (d) Notwithstanding the limited waiver of sovereign  
145 immunity provided in paragraphs (a) and (b):

146 1. herein, The state or an agency ~~or subdivision~~ thereof  
147 may agree, within the limits of insurance coverage provided, to  
148 settle a claim made or a judgment rendered against it in excess  
149 of the waiver provided in paragraph (b) without further action  
150 by the Legislature.

151        2. A subdivision of the state may agree to settle a claim  
152 made or a judgment rendered against it in excess of the waiver  
153 provided in paragraph (b) without further action by the  
154 Legislature.

155  
156 However, but the state or an agency or subdivision thereof shall  
157 not be deemed to have waived any defense of sovereign immunity  
158 or to have increased the limits of its liability as a result of  
159 its obtaining insurance coverage for tortious acts in excess of  
160 the ~~\$200,000 or \$300,000~~ waiver provided in paragraph (b).  
161 Beginning October 1, 2025, an insurance policy may not be  
162 delivered or issued for delivery to the state or any agency or  
163 subdivision thereof with a provision that conditions liability  
164 coverage or the payment of insurance benefits, in whole or in  
165 part, on the enactment of a claim bill. Any such provision is  
166 null and void ~~above.~~

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

171        (f) ~~(b)~~ A municipality has a duty to allow the municipal  
172 law enforcement agency to respond appropriately to protect  
173 persons and property during a riot or an unlawful assembly based  
174 on the availability of adequate equipment to its municipal law  
175 enforcement officers and relevant state and federal laws. If the

governing body of a municipality or a person authorized by the governing body of the municipality breaches that duty, the municipality is civilly liable for any damages, including damages arising from personal injury, wrongful death, or property damages proximately caused by the municipality's breach of duty. The sovereign immunity recovery limits in paragraph (b) ~~(a)~~ do not apply to an action under this paragraph.

(g) When determining liability limits for a claim, the limitations of liability in effect on the date the claim accrues shall apply to the claim.

(6) (a) An action may not be instituted on a claim against the state or one of its agencies or subdivisions unless the claimant presents the claim in writing to the appropriate agency, and also, except as to any claim against a municipality, county, or the Florida Space Authority, presents such claim in writing to the Department of Financial Services, within 18 months ~~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



201 by payment or agreed, while the action is pending against her or  
202 him, to discharge the common liability; or

203 2. Such action arises from a violation of s. 794.011  
204 involving a victim who was under the age of 16 years at the time  
205 of the act, the claimant may present the claim in writing at any  
206 time. This subparagraph applies to any such action other than an  
207 action that would have been time barred on or before October 1,  
208 2025 ~~is for wrongful death, the claimant must present the claim~~  
209 ~~in writing to the Department of Financial Services within 2~~  
210 ~~years after the claim accrues.~~

211 (d) For purposes of this section, complete, accurate, and  
212 timely compliance with the requirements of paragraph (c) shall  
213 occur prior to settlement payment, close of discovery or  
214 commencement of trial, whichever is sooner; provided the ability  
215 to plead setoff is not precluded by the delay. This setoff shall  
216 apply only against that part of the settlement or judgment  
217 payable to the claimant, minus claimant's reasonable attorney  
218 ~~attorney's~~ fees and costs. Incomplete or inaccurate disclosure  
219 of unpaid adjudicated claims due the state, its agency, officer,  
220 or subdivision, may be excused by the court upon a showing by  
221 the preponderance of the evidence of the claimant's lack of  
222 knowledge of an adjudicated claim and reasonable inquiry by, or  
223 on behalf of, the claimant to obtain the information from public  
224 records. Unless the appropriate agency had actual notice of the  
225 information required to be disclosed by paragraph (c) in time to

226 assert a setoff, an unexcused failure to disclose shall, upon  
227 hearing and order of court, cause the claimant to be liable for  
228 double the original undisclosed judgment and, upon further  
229 motion, the court shall enter judgment for the agency in that  
230 amount. Except as provided otherwise in this subsection, the  
231 failure of the Department of Financial Services or the  
232 appropriate agency to make final disposition of a claim within 4  
233 ~~6~~ months after it is filed shall be deemed a final denial of the  
234 claim for purposes of this section. For purposes of this  
235 subsection, in medical malpractice actions and in wrongful death  
236 actions, the failure of the Department of Financial Services or  
237 the appropriate agency to make final disposition of a claim  
238 within 90 days after it is filed shall be deemed a final denial  
239 of the claim. The statute of limitations ~~for medical malpractice~~  
240 ~~actions and wrongful death actions~~ is tolled as to all  
241 prospective defendants for the period of time taken by the  
242 Department of Financial Services or the appropriate agency to  
243 deny the claim. The provisions of this subsection do not apply  
244 to such claims as may be asserted by counterclaim pursuant to s.  
245 768.14.

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

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

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

254        (c) Within the limitations provided in s. 95.11(5) for an  
255 action for damages arising from medical malpractice or wrongful  
256 death.

257        (d) At any time for an action arising from an act  
258 constituting a violation of s. 794.011 involving a victim who  
259 was under the age of 16 years at the time of the act. This  
260 paragraph applies to any such action other than an action that  
261 would have been time barred on or before October 1, 2025.

262        (e) Within 4 years for any other action not specified in  
263 this subsection after such claim accrues; except that an action  
264 for contribution must be commenced within the limitations  
265 provided in s. 768.31(4), and an action for damages arising from  
266 medical malpractice or wrongful death must be commenced within  
267 the limitations for such actions in s. 95.11(5).

268        **Section 2. Subsection (2) of section 944.713, Florida**  
269 **Statutes, is amended to read:**

270        944.713 Insurance against liability.—

271        (2) The contract shall provide for indemnification of the  
272 state by the private vendor for any liabilities incurred up to  
273 the limits provided under s. 768.28(5). The contract shall  
274 provide that the private vendor, or the insurer of the private  
275 vendor, is liable to pay any claim or judgment for any one

person which does not exceed the applicable maximum amount  
provided in s. 768.28(5) ~~the sum of \$100,000 or any claim or~~  
~~judgment, or portions thereof, which, when totaled with all~~  
~~other claims or judgments arising out of the same incident or~~  
~~occurrence, does not exceed the sum of \$200,000.~~ In addition,  
the contractor must agree to defend, hold harmless, and  
indemnify the department against any and all actions, claims,  
damages and losses, including costs and attorney ~~attorney's~~  
fees.

**Section 3. For the purpose of incorporating the amendment  
made by this act to section 768.28, Florida Statutes, in a  
reference thereto, subsection (5) of section 45.061, Florida  
Statutes, is reenacted to read:**

45.061 Offers of settlement.—

(5) Sanctions authorized under this section may be imposed  
notwithstanding any limitation on recovery of costs or expenses  
which may be provided by contract or in other provisions of  
Florida law. This section shall not be construed to waive the  
limits of sovereign immunity set forth in s. 768.28.

**Section 4. For the purpose of incorporating the amendment  
made by this act to section 768.28, Florida Statutes, in a  
reference thereto, subsection (4) of section 110.504, Florida  
Statutes, is reenacted to read:**

110.504 Volunteer benefits.—

(4) Volunteers shall be covered by state liability

301 protection in accordance with the definition of a volunteer and  
302 the provisions of s. 768.28.

303 **Section 5. For the purpose of incorporating the amendment**  
304 **made by this act to section 768.28, Florida Statutes, in a**  
305 **reference thereto, paragraph (a) of subsection (1) of section**  
306 **111.071, Florida Statutes, is reenacted to read:**

307 111.071 Payment of judgments or settlements against  
308 certain public officers or employees.—

309 (1) Any county, municipality, political subdivision, or  
310 agency of the state which has been excluded from participation  
311 in the Insurance Risk Management Trust Fund is authorized to  
312 expend available funds to pay:

313 (a) Any final judgment, including damages, costs, and  
314 attorney's fees, arising from a complaint for damages or injury  
315 suffered as a result of any act or omission of action of any  
316 officer, employee, or agent in a civil or civil rights lawsuit  
317 described in s. 111.07. If the civil action arises under s.  
318 768.28 as a tort claim, the limitations and provisions of s.  
319 768.28 governing payment shall apply. If the action is a civil  
320 rights action arising under 42 U.S.C. s. 1983, or similar  
321 federal statutes, payments for the full amount of the judgment  
322 may be made unless the officer, employee, or agent has been  
323 determined in the final judgment to have caused the harm  
324 intentionally.

325 **Section 6. For the purpose of incorporating the amendment**

326 **made by this act to section 768.28, Florida Statutes, in a**  
327 **reference thereto, paragraph (b) of subsection (2) of section**  
328 **125.01015, Florida Statutes, is reenacted to read:**

329 125.01015 Office of the sheriff.—

330 (2) To ensure the successful transfer of the exclusive  
331 policing responsibility and authority to the sheriff in a  
332 county, as defined in s. 125.011(1), the board of county  
333 commissioners shall:

334 (b) After the election of the sheriff is certified:

335 1. Provide funding for all of the necessary staff and  
336 office space for the sheriff-elect to establish an independent  
337 office of the sheriff, so that the office may effectively  
338 operate and perform all of the functions required by general law  
339 when the sheriff-elect takes office.

340 2. Provide funding for the sheriff-elect to select any  
341 necessary insurances not provided by the county through the  
342 interlocal agreement required under sub-subparagraph 6.d. to  
343 allow the sheriff to effectively operate and perform all of the  
344 functions required by general law when he or she takes office.

345 3. Provide funding for the sheriff-elect to establish bank  
346 and other accounts, as necessary, in his or her official  
347 capacity as sheriff, so that such accounts become operational  
348 when he or she takes office.

349 4. Unless otherwise transferable based on existing surety  
350 bonds for the sheriff's deputies, provide funding for and

351 facilitate procurement of the required surety bonds for deputy  
352 sheriffs pursuant to s. 30.09, so that such bonds are in place  
353 when the sheriff-elect takes office.

354         5. Prepare and deliver to the office of the sheriff all  
355 documents, property, and other items listed in subsection (4).

356         6. Notwithstanding any provision to the contrary, for a  
357 term commencing on January 7, 2025, and ending on or after  
358 September 30, 2028, provide the sheriff-elect taking office  
359 with, and require the sheriff-elect taking office to use, not  
360 less than the substantially and materially same support  
361 services, facilities, office space, and information technology  
362 infrastructure provided to county offices or departments  
363 performing the duties to be performed by the sheriff-elect upon  
364 taking office in the 1-year period before he or she takes  
365 office.

366         a. As used in this subparagraph, the term "support  
367 services" includes:

368             (I) Property and facilities, and the management and  
369 maintenance for such property and facilities.

370             (II) Communications infrastructure, including telephone  
371 and Internet connectivity.

372             (III) Risk management, including processing, adjusting,  
373 and payment of all claims and demands, including those made  
374 under s. 768.28. The county shall provide the sheriff with all  
375 required general liability, property, and other insurance

376 coverage through its self-insurance program, a self-insurance  
377 risk pool, or commercial insurance. If the county provides  
378 insurance through a self-insurance program, the county must also  
379 provide the sheriff with commercial stop-loss coverage in an  
380 amount and with a self-insured retention agreed upon by the  
381 sheriff and the county.

382 (IV) Legal representation and advice through the office of  
383 the county attorney for all claims, demands, and causes of  
384 action brought against the sheriff, his or her deputies, or  
385 other personnel in their official and individual capacities,  
386 while acting in their official and individual capacities,  
387 including any required outside counsel due to conflicts of  
388 interest. This sub-sub-subparagraph does not prohibit the  
389 sheriff from employing or retaining his or her own legal  
390 representation as he or she deems necessary.

391 (V) Purchasing and procurement services using procedures  
392 under the laws and ordinances applicable to the county for  
393 purchases requiring competitive procurement.

394 (VI) Budget and fiscal software and budget development  
395 services.

396 (VII) Human resource services, including, but not limited  
397 to, facilitation of the hiring process, including employee  
398 applicant screening and employee applicant background checks,  
399 and employee benefit administration. The county may provide  
400 human resource services to the sheriff. However, the sheriff is



401 the employer of his or her employees, and the sheriff retains  
402 full and complete control and authority over the hiring of his  
403 or her employees and the terms and conditions of employment,  
404 including employee discipline and termination of employment. The  
405 provision of human resource services by the county to the  
406 sheriff does not create a joint-employer relationship. The  
407 sheriff's employees shall remain members of the county's health  
408 insurance and workers' compensation plans for at least the term  
409 set forth in this subparagraph.

410 (VIII) Fleet management, including procurement of all  
411 vehicles and other mobile assets such as boats and aircraft, and  
412 all vehicle repair and maintenance.

413 b. As used in this subparagraph, the term "information  
414 technology infrastructure" includes:

415 (I) All hardware, including computers.

416 (II) Budget and fiscal software, including payroll and  
417 purchasing software.

418 (III) Computer-aided dispatch.

419 c. Under a cost allocation plan agreed to by the county  
420 and the sheriff, the sheriff shall pay the county for such  
421 support services and information technology infrastructure from  
422 his or her general fund budget, except for any support services  
423 and information technology infrastructure costs that general law  
424 otherwise and expressly requires the county to fund outside the  
425 sheriff's budget.

d. To satisfy compliance with this subsection and to establish the office of the sheriff in a manner that minimizes unnecessary financial expenditures, the county and the sheriff shall execute an interlocal agreement addressing the requirements of this subsection and other expenditures, including an appropriate phase-in period for identification of the sheriff's assets with the sheriff's markings to minimize the cost to taxpayers. The interlocal agreement shall have a term that ends no earlier than September 30, 2028, and may be amended, renewed, extended, or newly adopted at any time following the expiration or termination of the agreement. After the initial period ending no earlier than September 30, 2028, an interlocal agreement may be entered into between the county and the sheriff which provides for the same or different requirements as set forth in this subsection.

**Section 7. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (h) of subsection (3) and paragraph (k) of subsection (15) of section 163.01, Florida Statutes, are reenacted to read:**

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(h) "Local government liability pool" means a reciprocal insurer as defined in s. 629.011 or any self-insurance program created pursuant to s. 768.28(16), formed and controlled by

counties or municipalities of this state to provide liability insurance coverage for counties, municipalities, or other public agencies of this state, which pool may contract with other parties for the purpose of providing claims administration, processing, accounting, and other administrative facilities.

(15) Notwithstanding any other provision of this section or of any other law except s. 361.14, any public agency of this state which is an electric utility, or any separate legal entity created pursuant to the provisions of this section, the membership of which consists only of electric utilities, and which exercises or proposes to exercise the powers granted by part II of chapter 361, the Joint Power Act, may exercise any or all of the following powers:

(k) The limitations on waiver in the provisions of s. 768.28 or any other law to the contrary notwithstanding, the Legislature, in accordance with s. 13, Art. X of the State Constitution, hereby declares that any such legal entity or any public agency of this state that participates in any electric project waives its sovereign immunity to:

1. All other persons participating therein; and
2. Any person in any manner contracting with a legal entity of which any such public agency is a member, with relation to:

a. Ownership, operation, or any other activity set forth in sub-subparagraph (b)2.d. with relation to any electric

476 project; or

477 b. The supplying or purchasing of services, output,  
478 capacity, energy, or any combination thereof.

479 **Section 8. For the purpose of incorporating the amendment**  
480 **made by this act to section 768.28, Florida Statutes, in a**  
481 **reference thereto, section 190.043, Florida Statutes, is**  
482 **reenacted to read:**

483 190.043 Suits against the district.—Any suit or action  
484 brought or maintained against the district for damages arising  
485 out of tort, including, without limitation, any claim arising  
486 upon account of an act causing an injury or loss of property,  
487 personal injury, or death, shall be subject to the limitations  
488 provided in s. 768.28.

489 **Section 9. For the purpose of incorporating the amendment**  
490 **made by this act to section 768.28, Florida Statutes, in a**  
491 **reference thereto, subsection (13) of section 213.015, Florida**  
492 **Statutes, is reenacted to read:**

493 213.015 Taxpayer rights.—There is created a Florida  
494 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
495 and property of Florida taxpayers are adequately safeguarded and  
496 protected during tax assessment, collection, and enforcement  
497 processes administered under the revenue laws of this state. The  
498 Taxpayer's Bill of Rights compiles, in one document, brief but  
499 comprehensive statements which explain, in simple, nontechnical  
500 terms, the rights and obligations of the Department of Revenue

501 and taxpayers. Section 192.0105 provides additional rights  
502 afforded to payors of property taxes and assessments. The rights  
503 afforded taxpayers to ensure that their privacy and property are  
504 safeguarded and protected during tax assessment and collection  
505 are available only insofar as they are implemented in other  
506 parts of the Florida Statutes or rules of the Department of  
507 Revenue. The rights so guaranteed Florida taxpayers in the  
508 Florida Statutes and the departmental rules are:

509 (13) The right to an action at law within the limitations  
510 of s. 768.28, relating to sovereign immunity, to recover damages  
511 against the state or the Department of Revenue for injury caused  
512 by the wrongful or negligent act or omission of a department  
513 officer or employee (see s. 768.28).

514 **Section 10. For the purpose of incorporating the amendment**  
515 **made by this act to section 768.28, Florida Statutes, in a**  
516 **reference thereto, section 252.51, Florida Statutes, is**  
517 **reenacted to read:**

518 252.51 Liability.—Any person or organization, public or  
519 private, owning or controlling real estate or other premises who  
520 voluntarily and without compensation, other than payment or  
521 reimbursement of costs and expenses, grants a license or  
522 privilege or otherwise permits the designation by the local  
523 emergency management agency or use of the whole or any part of  
524 such real estate or premises for the purpose of sheltering  
525 persons during an actual, impending, mock, or practice

emergency, together with her or his successor in interest, if any, shall not be liable for the death of, or injury to, any person on or about such real estate or premises during the actual, impending, mock, or practice emergency, or for loss of, or damage to, the property of such person, solely by reason or as a result of such license, privilege, designation, or use, unless the gross negligence or the willful and wanton misconduct of such person owning or controlling such real estate or premises or her or his successor in interest is the proximate cause of such death, injury, loss, or damage occurring during such sheltering period. Any such person or organization who provides such shelter space for compensation shall be deemed to be an instrumentality of the state or its applicable agency or subdivision for the purposes of s. 768.28.

**Section 11. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 252.89, Florida Statutes, is reenacted to read:**

252.89 Tort liability.—The commission and the committees shall be state agencies, and the members of the commission and committees shall be officers, employees, or agents of the state for the purposes of s. 768.28.

**Section 12. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 252.944, Florida Statutes, is**

reenacted to read:

252.944 Tort liability.—The commission and the committees are state agencies, and the members of the commission and committees are officers, employees, or agents of the state for the purpose of s. 768.28.

**Section 13. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (2) of section 260.0125, Florida Statutes, is reenacted to read:**

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 110.501, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

**Section 14. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 284.31, Florida Statutes, is reenacted to read:**

284.31 Scope and types of coverages; separate accounts.—  
The Insurance Risk Management Trust Fund must, unless specifically excluded by the Department of Financial Services,

cover all departments of the State of Florida and their employees, agents, and volunteers and must provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, state agency firefighter cancer benefits payable under s. 112.1816(2), and court-awarded attorney fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission. Unless specifically excluded by the Department of Financial Services, the Insurance Risk Management Trust Fund must provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage is primary and is subject to s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Financial Services.

**Section 15. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, section 284.38, Florida Statutes, is reenacted to read:**



284.38 Waiver of sovereign immunity; effect.—The insurance programs developed herein shall provide limits as established by the provisions of s. 768.28 if a tort claim. The limits provided in s. 768.28 shall not apply to a civil rights action arising under 42 U.S.C. s. 1983 or similar federal statute. Payment of a pending or future claim or judgment arising under any of said statutes may be made upon this act becoming a law, unless the officer, employee, or agent has been determined in the final judgment to have caused the harm intentionally; however, the fund is authorized to pay all other court-ordered attorney's fees as provided under s. 284.31.

**Section 16. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 322.13, Florida Statutes, is reenacted to read:**

322.13 Driver license examiners.—

(1)

(b) Those persons serving as driver license examiners are not liable for actions taken within the scope of their employment or designation, except as provided by s. 768.28.

**Section 17. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 337.19, Florida Statutes, is reenacted to read:**

337.19 Suits by and against department; limitation of

actions; forum.—

(1) Suits at law and in equity may be brought and maintained by and against the department on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement. In any such suit, the department and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. Notwithstanding anything to the contrary contained in this section, no employee or agent of the department may be held personally liable to an extent greater than that pursuant to s. 768.28 provided that no suit sounding in tort shall be maintained against the department.

**Section 18. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (17) of section 341.302, Florida Statutes, is reenacted to read:**

341.302 Rail program; duties and responsibilities of the department.—The department, in conjunction with other governmental entities, including the rail enterprise and the

private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under federal law, the department shall:

(17) In conjunction with the acquisition, ownership, construction, operation, maintenance, and management of a rail corridor, have the authority to:

(a) Assume obligations pursuant to the following:

1.a. The department may assume the obligation by contract to forever protect, defend, indemnify, and hold harmless the freight rail operator, or its successors, from whom the department has acquired a real property interest in the rail corridor, and that freight rail operator's officers, agents, and employees, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers and rail corridor invitees in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of such freight rail operator, its successors, or its officers, agents, and employees, or any other person or persons whomsoever; or

b. The department may assume the obligation by contract to forever protect, defend, indemnify, and hold harmless National Railroad Passenger Corporation, or its successors, and officers, agents, and employees of National Railroad Passenger Corporation, from and against any liability, cost, and expense, including, but not limited to, commuter rail passengers and rail corridor invitees in the rail corridor, regardless of whether the loss, damage, destruction, injury, or death giving rise to any such liability, cost, or expense is caused in whole or in part, and to whatever nature or degree, by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of National Railroad Passenger Corporation, its successors, or its officers, agents, and employees, or any other person or persons whomsoever.

2. The assumption of liability of the department by contract pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may not in any instance exceed the following parameters of allocation of risk:

a. The department may be solely responsible for any loss, injury, or damage to commuter rail passengers, or rail corridor invitees, or trespassers, regardless of circumstances or cause, subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and 6.

b.(I) In the event of a limited covered accident, the authority of the department to protect, defend, and indemnify

701 the freight operator for all liability, cost, and expense,  
702 including punitive or exemplary damages, in excess of the  
703 deductible or self-insurance retention fund established under  
704 paragraph (b) and actually in force at the time of the limited  
705 covered accident exists only if the freight operator agrees,  
706 with respect to the limited covered accident, to protect,  
707 defend, and indemnify the department for the amount of the  
708 deductible or self-insurance retention fund established under  
709 paragraph (b) and actually in force at the time of the limited  
710 covered accident.

711       (II) In the event of a limited covered accident, the  
712 authority of the department to protect, defend, and indemnify  
713 National Railroad Passenger Corporation for all liability, cost,  
714 and expense, including punitive or exemplary damages, in excess  
715 of the deductible or self-insurance retention fund established  
716 under paragraph (b) and actually in force at the time of the  
717 limited covered accident exists only if National Railroad  
718 Passenger Corporation agrees, with respect to the limited  
719 covered accident, to protect, defend, and indemnify the  
720 department for the amount of the deductible or self-insurance  
721 retention fund established under paragraph (b) and actually in  
722 force at the time of the limited covered accident.

723       3. When only one train is involved in an incident, the  
724 department may be solely responsible for any loss, injury, or  
725 damage if the train is a department train or other train

pursuant to subparagraph 4., but only if:

a. When an incident occurs with only a freight train involved, including incidents with trespassers or at grade crossings, the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees; or

b. When an incident occurs with only a National Railroad Passenger Corporation train involved, including incidents with trespassers or at grade crossings, National Railroad Passenger Corporation is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees.

4. For the purposes of this subsection:

a. Any train involved in an incident that is neither the department's train nor the freight rail operator's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and the freight rail operator only, but only if the department and the freight rail operator share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a freight rail operator train, and the allocation as between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain

one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; or

b. Any train involved in an incident that is neither the department's train nor the National Railroad Passenger Corporation's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and National Railroad Passenger Corporation only, but only if the department and National Railroad Passenger Corporation share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a National Railroad Passenger Corporation train, and the allocation as between the department and National Railroad Passenger Corporation, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

5. When more than one train is involved in an incident:

a.(I) If only a department train and freight rail operator's train, or only an other train as described in sub-subparagraph 4.a. and a freight rail operator's train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, and rail corridor invitees, but only if the freight rail operator is responsible for its property and all of its people, and the department and the freight rail operator each share one-half responsibility as to trespassers or third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; or

(II) If only a department train and a National Railroad Passenger Corporation train, or only an other train as described in sub-subparagraph 4.b. and a National Railroad Passenger Corporation train, are involved in an incident, the department may be responsible for its property and all of its people, all commuter rail passengers, and rail corridor invitees, but only if National Railroad Passenger Corporation is responsible for its property and all of its people, all National Railroad Passenger Corporation's rail passengers, and the department and National Railroad Passenger Corporation each share one-half responsibility as to trespassers or third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.



b.(I) If a department train, a freight rail operator train, and any other train are involved in an incident, the allocation of liability between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; the involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; and, if the owner, operator, or insurer of the other train makes any payment to injured third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, the allocation of credit between the department and the freight rail operator as to such payment shall not in any case reduce the freight rail operator's third-party-sharing allocation of one-half under this paragraph to less than one-third of the total third party liability; or

(II) If a department train, a National Railroad Passenger Corporation train, and any other train are involved in an incident, the allocation of liability between the department and National Railroad Passenger Corporation, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; the

involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; and, if the owner, operator, or insurer of the other train makes any payment to injured third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident, the allocation of credit between the department and National Railroad Passenger Corporation as to such payment shall not in any case reduce National Railroad Passenger Corporation's third-party-sharing allocation of one-half under this sub-subparagraph to less than one-third of the total third party liability.

6. Any such contractual duty to protect, defend, indemnify, and hold harmless such a freight rail operator or National Railroad Passenger Corporation shall expressly include a specific cap on the amount of the contractual duty, which amount shall not exceed \$200 million without prior legislative approval, and the department to purchase liability insurance and establish a self-insurance retention fund in the amount of the specific cap established under this subparagraph, provided that:

a. No such contractual duty shall in any case be effective nor otherwise extend the department's liability in scope and effect beyond the contractual liability insurance and self-insurance retention fund required pursuant to this paragraph; and

b.(I) The freight rail operator's compensation to the department for future use of the department's rail corridor shall include a monetary contribution to the cost of such liability coverage for the sole benefit of the freight rail operator.

(II) National Railroad Passenger Corporation's compensation to the department for future use of the department's rail corridor shall include a monetary contribution to the cost of such liability coverage for the sole benefit of National Railroad Passenger Corporation.

(b) Purchase liability insurance, which amount shall not exceed \$200 million, and establish a self-insurance retention fund for the purpose of paying the deductible limit established in the insurance policies it may obtain, including coverage for the department, any freight rail operator as described in paragraph (a), National Railroad Passenger Corporation, commuter rail service providers, governmental entities, or any ancillary development, which self-insurance retention fund or deductible shall not exceed \$10 million. The insureds shall pay a reasonable monetary contribution to the cost of such liability coverage for the sole benefit of the insured. Such insurance and self-insurance retention fund may provide coverage for all damages, including, but not limited to, compensatory, special, and exemplary, and be maintained to provide an adequate fund to cover claims and liabilities for loss, injury, or damage arising

876 out of or connected with the ownership, operation, maintenance,  
877 and management of a rail corridor.

878 (c) Incur expenses for the purchase of advertisements,  
879 marketing, and promotional items.

880 (d) Without altering any of the rights granted to the  
881 department under this section, agree to assume the obligations  
882 to indemnify and insure, pursuant to s. 343.545, freight rail  
883 service, intercity passenger rail service, and commuter rail  
884 service on a department-owned rail corridor, whether ownership  
885 is in fee or by easement, or on a rail corridor where the  
886 department has the right to operate.

887  
888 Neither the assumption by contract to protect, defend,  
889 indemnify, and hold harmless; the purchase of insurance; nor the  
890 establishment of a self-insurance retention fund shall be deemed  
891 to be a waiver of any defense of sovereign immunity for torts  
892 nor deemed to increase the limits of the department's or the  
893 governmental entity's liability for torts as provided in s.  
894 768.28. The requirements of s. 287.022(1) shall not apply to the  
895 purchase of any insurance under this subsection. The provisions  
896 of this subsection shall apply and inure fully as to any other  
897 governmental entity providing commuter rail service and  
898 constructing, operating, maintaining, or managing a rail  
899 corridor on publicly owned right-of-way under contract by the  
900 governmental entity with the department or a governmental entity

designated by the department. Notwithstanding any law to the contrary, procurement for the construction, operation, maintenance, and management of any rail corridor described in this subsection, whether by the department, a governmental entity under contract with the department, or a governmental entity designated by the department, shall be pursuant to s. 287.057 and shall include, but not be limited to, criteria for the consideration of qualifications, technical aspects of the proposal, and price. Further, any such contract for design-build shall be procured pursuant to the criteria in s. 337.11(7).

**Section 19. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 351.03, Florida Statutes, is reenacted to read:**

351.03 Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darkness.—

(4)

(c) Nothing in this subsection shall be construed to nullify the liability provisions of s. 768.28.

**Section 20. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (6) of section 373.1395, Florida Statutes, is reenacted to read:**

373.1395 Limitation on liability of water management

926 district with respect to areas made available to the public for  
927 recreational purposes without charge.—

928 (6) This section does not relieve any water management  
929 district of any liability that would otherwise exist for gross  
930 negligence or a deliberate, willful, or malicious injury to a  
931 person or property. This section does not create or increase the  
932 liability of any water management district or person beyond that  
933 which is authorized by s. 768.28.

934 **Section 21. For the purpose of incorporating the amendment**  
935 **made by this act to section 768.28, Florida Statutes, in a**  
936 **reference thereto, paragraph (a) of subsection (3) of section**  
937 **375.251, Florida Statutes, is reenacted to read:**

938 375.251 Limitation on liability of persons making  
939 available to public certain areas for recreational purposes  
940 without charge.—

941 (3)(a) An owner of an area who enters into a written  
942 agreement concerning the area with a state agency for outdoor  
943 recreational purposes, where such agreement recognizes that the  
944 state agency is responsible for personal injury, loss, or damage  
945 resulting in whole or in part from the state agency's use of the  
946 area under the terms of the agreement subject to the limitations  
947 and conditions specified in s. 768.28, owes no duty of care to  
948 keep the area safe for entry or use by others, or to give  
949 warning to persons entering or going on the area of any  
950 hazardous conditions, structures, or activities thereon. An

owner who enters into a written agreement concerning the area with a state agency for outdoor recreational purposes:

1. Is not presumed to extend any assurance that the area is safe for any purpose;

2. Does not incur any duty of care toward a person who goes on the area that is subject to the agreement; or

3. Is not liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the area that is subject to the agreement.

**Section 22. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (9) of section 381.0056, Florida Statutes, is reenacted to read:**

381.0056 School health services program.—

(9) Any health care entity that provides school health services under contract with the department pursuant to a school health services plan developed under this section, and as part of a school nurse services public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of the state solely for the purpose of limiting liability pursuant to s. 768.28(5). The limitations on tort actions contained in s. 768.28(5) shall apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the department. The

contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the department. The Legislature intends that insurance be purchased by entities, or by partnerships on behalf of the entity, to cover all liability claims, and under no circumstances shall the state or the department be responsible for payment of any claims or defense costs for claims brought against the entity or its subcontractor for services performed under the contract with the department. This subsection does not preclude consideration by the Legislature for payment by the state of any claims bill involving an entity contracting with the department pursuant to this section.

**Section 23. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 393.075, Florida Statutes, is reenacted to read:**

393.075 General liability coverage.—

(3) This section shall not be construed as designating or not designating that a person who owns or operates a foster care facility or group home facility as described in this section or any other person is an employee or agent of the state. Nothing in this section amends, expands, or supersedes the provisions of s. 768.28.



1001       **Section 24. For the purpose of incorporating the amendment**  
1002 **made by this act to section 768.28, Florida Statutes, in a**  
1003 **reference thereto, subsection (7) of section 394.9085, Florida**  
1004 **Statutes, is reenacted to read:**

1005       394.9085 Behavioral provider liability.—

1006       (7) This section shall not be construed to waive sovereign  
1007 immunity for any governmental unit or other entity protected by  
1008 sovereign immunity. Section 768.28 shall continue to apply to  
1009 all governmental units and such entities.

1010       **Section 25. For the purpose of incorporating the amendment**  
1011 **made by this act to section 768.28, Florida Statutes, in a**  
1012 **reference thereto, paragraph (g) of subsection (10) of section**  
1013 **395.1055, Florida Statutes, is reenacted to read:**

1014       395.1055 Rules and enforcement.—

1015       (10) The agency shall establish a pediatric cardiac  
1016 technical advisory panel, pursuant to s. 20.052, to develop  
1017 procedures and standards for measuring outcomes of pediatric  
1018 cardiac catheterization programs and pediatric cardiovascular  
1019 surgery programs.

1020       (g) Panel members are agents of the state for purposes of  
1021 s. 768.28 throughout the good faith performance of the duties  
1022 assigned to them by the Secretary of Health Care Administration.

1023       **Section 26. For the purpose of incorporating the amendment**  
1024 **made by this act to section 768.28, Florida Statutes, in a**  
1025 **reference thereto, paragraph (c) of subsection (17) of section**

**403.706, Florida Statutes, is reenacted to read:**

403.706 Local government solid waste responsibilities.—

(17) To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b), notwithstanding the limitations prescribed in s. 768.28.

**Section 27. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (15) of section 409.175, Florida Statutes, is reenacted to read:**

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(15)

(b) This subsection may not be construed as designating or not designating that a person who owns or operates a family foster home as described in this subsection or any other person is an employee or agent of the state. Nothing in this subsection amends, expands, or supersedes the provisions of s. 768.28.

**Section 28. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a**

1051 **reference thereto, subsection (1), paragraph (a) of subsection**  
1052 **(2), and paragraph (a) of subsection (3) of section 409.993,**  
1053 **Florida Statutes, are reenacted to read:**

1054       409.993   Lead agencies and subcontractor liability.—

1055       (1)   FINDINGS.—

1056       (a)   The Legislature finds that the state has traditionally  
1057 provided foster care services to children who are the  
1058 responsibility of the state. As such, foster children have not  
1059 had the right to recover for injuries beyond the limitations  
1060 specified in s. 768.28. The Legislature has determined that  
1061 foster care and related services should be outsourced pursuant  
1062 to this section and that the provision of such services is of  
1063 paramount importance to the state. The purpose of such  
1064 outsourcing is to increase the level of safety, security, and  
1065 stability of children who are or become the responsibility of  
1066 the state. One of the components necessary to secure a safe and  
1067 stable environment for such children is the requirement that  
1068 private providers maintain liability insurance. As such,  
1069 insurance needs to be available and remain available to  
1070 nongovernmental foster care and related services providers  
1071 without the resources of such providers being significantly  
1072 reduced by the cost of maintaining such insurance.

1073       (b)   The Legislature further finds that, by requiring the  
1074 following minimum levels of insurance, children in outsourced  
1075 foster care and related services will gain increased protection

1076 and rights of recovery in the event of injury than currently  
1077 provided in s. 768.28.

1078 (2) LEAD AGENCY LIABILITY.—

1079 (a) Other than an entity to which s. 768.28 applies, an  
1080 eligible community-based care lead agency, or its employees or  
1081 officers, except as otherwise provided in paragraph (b), shall,  
1082 as a part of its contract, obtain a minimum of \$1 million per  
1083 occurrence with a policy period aggregate limit of \$3 million in  
1084 general liability insurance coverage. The lead agency must also  
1085 require that staff who transport client children and families in  
1086 their personal automobiles in order to carry out their job  
1087 responsibilities obtain minimum bodily injury liability  
1088 insurance in the amount of \$100,000 per person per any one  
1089 automobile accident, and subject to such limits for each person,  
1090 \$300,000 for all damages resulting from any one automobile  
1091 accident, on their personal automobiles. In lieu of personal  
1092 motor vehicle insurance, the lead agency's casualty, liability,  
1093 or motor vehicle insurance carrier may provide nonowned  
1094 automobile liability coverage. This insurance provides liability  
1095 insurance for an automobile that the lead agency uses in  
1096 connection with the lead agency's business but does not own,  
1097 lease, rent, or borrow. This coverage includes an automobile  
1098 owned by an employee of the lead agency or a member of the  
1099 employee's household but only while the automobile is used in  
1100 connection with the lead agency's business. The nonowned

1101 automobile coverage for the lead agency applies as excess  
1102 coverage over any other collectible insurance. The personal  
1103 automobile policy for the employee of the lead agency shall be  
1104 primary insurance, and the nonowned automobile coverage of the  
1105 lead agency acts as excess insurance to the primary insurance.  
1106 The lead agency shall provide a minimum limit of \$1 million in  
1107 nonowned automobile coverage. In a tort action brought against  
1108 such a lead agency or employee, net economic damages shall be  
1109 limited to \$2 million per liability claim and \$200,000 per  
1110 automobile claim, including, but not limited to, past and future  
1111 medical expenses, wage loss, and loss of earning capacity,  
1112 offset by any collateral source payment paid or payable. In any  
1113 tort action brought against a lead agency, noneconomic damages  
1114 shall be limited to \$400,000 per claim. A claims bill may be  
1115 brought on behalf of a claimant pursuant to s. 768.28 for any  
1116 amount exceeding the limits specified in this paragraph. Any  
1117 offset of collateral source payments made as of the date of the  
1118 settlement or judgment shall be in accordance with s. 768.76.  
1119 The lead agency is not liable in tort for the acts or omissions  
1120 of its subcontractors or the officers, agents, or employees of  
1121 its subcontractors.

1122 (3) SUBCONTRACTOR LIABILITY.—

1123 (a) A subcontractor of an eligible community-based care  
1124 lead agency that is a direct provider of foster care and related  
1125 services to children and families, and its employees or

1126 officers, except as otherwise provided in paragraph (b), must,  
1127 as a part of its contract, obtain a minimum of \$1 million per  
1128 occurrence with a policy period aggregate limit of \$3 million in  
1129 general liability insurance coverage. The subcontractor of a  
1130 lead agency must also require that staff who transport client  
1131 children and families in their personal automobiles in order to  
1132 carry out their job responsibilities obtain minimum bodily  
1133 injury liability insurance in the amount of \$100,000 per person  
1134 in any one automobile accident, and subject to such limits for  
1135 each person, \$300,000 for all damages resulting from any one  
1136 automobile accident, on their personal automobiles. In lieu of  
1137 personal motor vehicle insurance, the subcontractor's casualty,  
1138 liability, or motor vehicle insurance carrier may provide  
1139 nonowned automobile liability coverage. This insurance provides  
1140 liability insurance for automobiles that the subcontractor uses  
1141 in connection with the subcontractor's business but does not  
1142 own, lease, rent, or borrow. This coverage includes automobiles  
1143 owned by the employees of the subcontractor or a member of the  
1144 employee's household but only while the automobiles are used in  
1145 connection with the subcontractor's business. The nonowned  
1146 automobile coverage for the subcontractor applies as excess  
1147 coverage over any other collectible insurance. The personal  
1148 automobile policy for the employee of the subcontractor shall be  
1149 primary insurance, and the nonowned automobile coverage of the  
1150 subcontractor acts as excess insurance to the primary insurance.

The subcontractor shall provide a minimum limit of \$1 million in nonowned automobile coverage. In a tort action brought against such subcontractor or employee, net economic damages shall be limited to \$2 million per liability claim and \$200,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In a tort action brought against such subcontractor, noneconomic damages shall be limited to \$400,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

**Section 29. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (8) of section 420.504, Florida Statutes, is reenacted to read:**

420.504 Public corporation; creation, membership, terms, expenses.—

(8) The corporation is a corporation primarily acting as an instrumentality of the state, within the meaning of s. 768.28.

**Section 30. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 455.221, Florida**

**Statutes, is reenacted to read:**

455.221 Legal and investigative services.—

(3) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

**Section 31. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (5) of section 455.32, Florida Statutes, is reenacted to read:**

455.32 Management Privatization Act.—

(5) Any such corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 110 or chapter 112, except that the board of directors and the employees of the corporation are subject to the provisions of s. 112.061 and part III of chapter 112. The provisions of s. 768.28 apply to each such corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state but which is not an agency within the meaning of s. 20.03(1).

**Section 32. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a**



reference thereto, subsection (3) of section 456.009, Florida Statutes, is reenacted to read:

456.009 Legal and investigative services.—

(3) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to a profession under the jurisdiction of the department shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

**Section 33. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (a) of subsection (15) of section 456.076, Florida Statutes, is reenacted to read:**

456.076 Impaired practitioner programs.—

(15) (a) A consultant retained pursuant to this section and a consultant's directors, officers, employees, or agents shall be considered agents of the department for purposes of s. 768.28 while acting within the scope of the consultant's duties under the contract with the department.

**Section 34. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 471.038, Florida Statutes, is reenacted to read:**

471.038 Florida Engineers Management Corporation.—

1226           (3) The Florida Engineers Management Corporation is  
1227 created to provide administrative, investigative, and  
1228 prosecutorial services to the board in accordance with the  
1229 provisions of chapter 455 and this chapter. The management  
1230 corporation may hire staff as necessary to carry out its  
1231 functions. Such staff are not public employees for the purposes  
1232 of chapter 110 or chapter 112, except that the board of  
1233 directors and the staff are subject to the provisions of s.  
1234 112.061. The provisions of s. 768.28 apply to the management  
1235 corporation, which is deemed to be a corporation primarily  
1236 acting as an instrumentality of the state, but which is not an  
1237 agency within the meaning of s. 20.03(1). The management  
1238 corporation shall:

1239           (a) Be a Florida corporation not for profit, incorporated  
1240 under the provisions of chapter 617.

1241           (b) Provide administrative, investigative, and  
1242 prosecutorial services to the board in accordance with the  
1243 provisions of chapter 455, this chapter, and the contract  
1244 required by this section.

1245           (c) Receive, hold, and administer property and make only  
1246 prudent expenditures directly related to the responsibilities of  
1247 the board, and in accordance with the contract required by this  
1248 section.

1249           (d) Be approved by the board, and the department, to  
1250 operate for the benefit of the board and in the best interest of

1251 the state.

1252 (e) Operate under a fiscal year that begins on July 1 of  
1253 each year and ends on June 30 of the following year.

1254 (f) Have a seven-member board of directors, five of whom  
1255 are to be appointed by the board and must be registrants  
1256 regulated by the board and two of whom are to be appointed by  
1257 the secretary and must be laypersons not regulated by the board.  
1258 All appointments shall be for 4-year terms. No member shall  
1259 serve more than two consecutive terms. Failure to attend three  
1260 consecutive meetings shall be deemed a resignation from the  
1261 board, and the vacancy shall be filled by a new appointment.

1262 (g) Select its officers in accordance with its bylaws. The  
1263 members of the board of directors who were appointed by the  
1264 board may be removed by the board.

1265 (h) Select the president of the management corporation,  
1266 who shall also serve as executive director to the board, subject  
1267 to approval of the board.

1268 (i) Use a portion of the interest derived from the  
1269 management corporation account to offset the costs associated  
1270 with the use of credit cards for payment of fees by applicants  
1271 or licensees.

1272 (j) Operate under a written contract with the department  
1273 which is approved by the board. The contract must provide for,  
1274 but is not limited to:

1275 1. Submission by the management corporation of an annual

1276 budget that complies with board rules for approval by the board  
1277 and the department.

1278       2. Annual certification by the board and the department  
1279 that the management corporation is complying with the terms of  
1280 the contract in a manner consistent with the goals and purposes  
1281 of the board and in the best interest of the state. This  
1282 certification must be reported in the board's minutes. The  
1283 contract must also provide for methods and mechanisms to resolve  
1284 any situation in which the certification process determines  
1285 noncompliance.

1286       3. Funding of the management corporation through  
1287 appropriations allocated to the regulation of professional  
1288 engineers from the Professional Regulation Trust Fund.

1289       4. The reversion to the board, or the state if the board  
1290 ceases to exist, of moneys, records, data, and property held in  
1291 trust by the management corporation for the benefit of the  
1292 board, if the management corporation is no longer approved to  
1293 operate for the board or the board ceases to exist. All records  
1294 and data in a computerized database shall be returned to the  
1295 department in a form that is compatible with the computerized  
1296 database of the department.

1297       5. The securing and maintaining by the management  
1298 corporation, during the term of the contract and for all acts  
1299 performed during the term of the contract, of all liability  
1300 insurance coverages in an amount to be approved by the board to

1301 defend, indemnify, and hold harmless the management corporation  
1302 and its officers and employees, the department and its  
1303 employees, and the state against all claims arising from state  
1304 and federal laws. Such insurance coverage must be with insurers  
1305 qualified and doing business in the state. The management  
1306 corporation must provide proof of insurance to the department.  
1307 The department and its employees and the state are exempt from  
1308 and are not liable for any sum of money which represents a  
1309 deductible, which sums shall be the sole responsibility of the  
1310 management corporation. Violation of this subparagraph shall be  
1311 grounds for terminating the contract.

1312         6. Payment by the management corporation, out of its  
1313 allocated budget, to the department of all costs of  
1314 representation by the board counsel, including salary and  
1315 benefits, travel, and any other compensation traditionally paid  
1316 by the department to other board counsel.

1317         7. Payment by the management corporation, out of its  
1318 allocated budget, to the department of all costs incurred by the  
1319 management corporation or the board for the Division of  
1320 Administrative Hearings of the Department of Management Services  
1321 and any other cost for utilization of these state services.

1322         8. Payment by the management corporation, out of its  
1323 allocated budget, to the department of reasonable costs  
1324 associated with the contract monitor.

1325         (k) Provide for an annual financial audit of its financial

1326 accounts and records by an independent certified public  
1327 accountant. The annual audit report shall include a management  
1328 letter in accordance with s. 11.45 and a detailed supplemental  
1329 schedule of expenditures for each expenditure category. The  
1330 annual audit report must be submitted to the board, the  
1331 department, and the Auditor General for review.

1332 (l) Provide for persons not employed by the corporation  
1333 who are charged with the responsibility of receiving and  
1334 depositing fee and fine revenues to have a faithful performance  
1335 bond in such an amount and according to such terms as shall be  
1336 determined in the contract.

1337 (m) Submit to the secretary, the board, and the  
1338 Legislature, on or before October 1 of each year, a report on  
1339 the status of the corporation which includes, but is not limited  
1340 to, information concerning the programs and funds that have been  
1341 transferred to the corporation. The report must include: the  
1342 number of license applications received; the number approved and  
1343 denied and the number of licenses issued; the number of  
1344 examinations administered and the number of applicants who  
1345 passed or failed the examination; the number of complaints  
1346 received; the number determined to be legally sufficient; the  
1347 number dismissed; the number determined to have probable cause;  
1348 the number of administrative complaints issued and the status of  
1349 the complaints; and the number and nature of disciplinary  
1350 actions taken by the board.

(n) Develop and submit to the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

**Section 35. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (b) of subsection (11) of section 472.006, Florida Statutes, is reenacted to read:**

472.006 Department; powers and duties.—The department shall:

(11) Provide legal counsel for the board by contracting with the Department of Legal Affairs, by retaining private counsel pursuant to s. 287.059, or by providing department staff counsel. The board shall periodically review and evaluate the services provided by its board counsel. Fees and costs of such counsel shall be paid from the General Inspection Trust Fund, subject to ss. 215.37 and 472.011. All contracts for independent legal counsel must provide for periodic review and evaluation by the board and the department of services provided.

(b) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department relating to the practice of surveying and mapping shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

1376       **Section 36. For the purpose of incorporating the amendment**  
1377 **made by this act to section 768.28, Florida Statutes, in a**  
1378 **reference thereto, subsection (7) of section 497.167, Florida**  
1379 **Statutes, is reenacted to read:**

1380       497.167 Administrative matters.—

1381       (7) Any person retained by the department under contract  
1382 to review materials, make site visits, or provide expert  
1383 testimony regarding any complaint or application filed with the  
1384 department, relating to regulation under this chapter, shall be  
1385 considered an agent of the department in determining the state  
1386 insurance coverage and sovereign immunity protection  
1387 applicability of ss. 284.31 and 768.28.

1388       **Section 37. For the purpose of incorporating the amendment**  
1389 **made by this act to section 768.28, Florida Statutes, in a**  
1390 **reference thereto, subsection (2) of section 513.118, Florida**  
1391 **Statutes, is reenacted to read:**

1392       513.118 Conduct on premises; refusal of service.—

1393       (2) The operator of a recreational vehicle park may  
1394 request that a transient guest or visitor who violates  
1395 subsection (1) leave the premises immediately. A person who  
1396 refuses to leave the premises commits the offense of trespass as  
1397 provided in s. 810.08, and the operator may call a law  
1398 enforcement officer to have the person and his or her property  
1399 removed under the supervision of the officer. A law enforcement  
1400 officer is not liable for any claim involving the removal of the



person or property from the recreational vehicle park under this section, except as provided in s. 768.28. If conditions do not allow for immediate removal of the person's property, he or she may arrange a reasonable time, not to exceed 48 hours, with the operator to come remove the property, accompanied by a law enforcement officer.

**Section 38. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 548.046, Florida Statutes, is reenacted to read:**

548.046 Physician's attendance at match; examinations; cancellation of match.—

(1) The commission, or the commission representative, shall assign to each match at least one physician who shall observe the physical condition of the participants and advise the commissioner or commission representative in charge and the referee of the participants' conditions before, during, and after the match. The commission shall establish a schedule of fees for the physician's services. The physician's fee shall be paid by the promoter of the match attended by the physician. The physician shall be considered an agent of the commission in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

**Section 39. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a**

reference thereto, subsection (8) of section 556.106, Florida Statutes, is reenacted to read:

556.106 Liability of the member operator, excavator, and system.—

(8) Any liability of the state, its agencies, or its subdivisions which arises out of this chapter is subject to the provisions of s. 768.28.

**Section 40. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (e) of subsection (4) of section 589.19, Florida Statutes, is reenacted to read:**

589.19 Creation of certain state forests; naming of certain state forests; Operation Outdoor Freedom Program.—

(4)

(e)1. A private landowner who provides land for designation and use as an Operation Outdoor Freedom Program hunting site shall have limited liability pursuant to s. 375.251.

2. A private landowner who consents to the designation and use of land as part of the Operation Outdoor Freedom Program without compensation shall be considered a volunteer, as defined in s. 110.501, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

3. This subsection does not:

a. Relieve any person of liability that would otherwise

1451 exist for deliberate, willful, or malicious injury to persons or  
1452 property.

1453 b. Create or increase the liability of any person.

1454 **Section 41. For the purpose of incorporating the amendment**  
1455 **made by this act to section 768.28, Florida Statutes, in a**  
1456 **reference thereto, subsections (3) and (4) of section 627.7491,**  
1457 **Florida Statutes, are reenacted to read:**

1458 627.7491 Official law enforcement vehicles; motor vehicle  
1459 insurance requirements.—

1460 (3) Any suit or action brought or maintained against an  
1461 employing agency for damages arising out of tort pursuant to  
1462 this section, including, without limitation, any claim arising  
1463 upon account of an act causing loss of property, personal  
1464 injury, or death, shall be subject to the limitations provided  
1465 in s. 768.28(5).

1466 (4) The requirements of this section may be met by any  
1467 method authorized by s. 768.28(16).

1468 **Section 42. For the purpose of incorporating the amendment**  
1469 **made by this act to section 768.28, Florida Statutes, in a**  
1470 **reference thereto, paragraph (c) of subsection (2) of section**  
1471 **723.0611, Florida Statutes, is reenacted to read:**

1472 723.0611 Florida Mobile Home Relocation Corporation.—

1473 (2)

1474 (c) The corporation shall, for purposes of s. 768.28, be  
1475 considered an agency of the state. Agents or employees of the

1476 corporation, members of the board of directors of the  
1477 corporation, or representatives of the Division of Florida  
1478 Condominiums, Timeshares, and Mobile Homes shall be considered  
1479 officers, employees, or agents of the state, and actions against  
1480 them and the corporation shall be governed by s. 768.28.

1481 **Section 43. For the purpose of incorporating the amendment**  
1482 **made by this act to section 768.28, Florida Statutes, in a**  
1483 **reference thereto, subsection (5) of section 760.11, Florida**  
1484 **Statutes, is reenacted to read:**

1485 760.11 Administrative and civil remedies; construction.—

1486 (5) In any civil action brought under this section, the  
1487 court may issue an order prohibiting the discriminatory practice  
1488 and providing affirmative relief from the effects of the  
1489 practice, including back pay. The court may also award  
1490 compensatory damages, including, but not limited to, damages for  
1491 mental anguish, loss of dignity, and any other intangible  
1492 injuries, and punitive damages. The provisions of ss. 768.72 and  
1493 768.73 do not apply to this section. The judgment for the total  
1494 amount of punitive damages awarded under this section to an  
1495 aggrieved person shall not exceed \$100,000. In any action or  
1496 proceeding under this subsection, the court, in its discretion,  
1497 may allow the prevailing party a reasonable attorney's fee as  
1498 part of the costs. It is the intent of the Legislature that this  
1499 provision for attorney's fees be interpreted in a manner  
1500 consistent with federal case law involving a Title VII action.

The right to trial by jury is preserved in any such private right of action in which the aggrieved person is seeking compensatory or punitive damages, and any party may demand a trial by jury. The commission's determination of reasonable cause is not admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private right of action. A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission. The commencement of such action shall divest the commission of jurisdiction of the complaint, except that the commission may intervene in the civil action as a matter of right. Notwithstanding the above, the state and its agencies and subdivisions shall not be liable for punitive damages. The total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in s. 768.28(5).

**Section 44. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (4) of section 766.1115, Florida Statutes, is reenacted to read:**

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

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver

health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties under the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider shall continue to be an agent for purposes of s. 768.28(9) for 30 days after a determination of ineligibility to allow for treatment until the individual transitions to treatment by another health care provider. A health care provider under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided on or after April 17, 1992, under contracts entered into under this section. The contract must provide that:

(a) The right of dismissal or termination of any health care provider delivering services under the contract is retained by the governmental contractor.

(b) The governmental contractor has access to the patient records of any health care provider delivering services under the contract.

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if the incidents and information pertain to a patient treated under the contract. The health care provider shall submit the reports required by s. 395.0197. If an

incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities under this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Patient selection and initial referral must be made by the governmental contractor or the provider. Patients may not be transferred to the provider based on a violation of the antidumping provisions of the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, or chapter 395.

(e) If emergency care is required, the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.

(f) The provider is subject to supervision and regular inspection by the governmental contractor.

(g) As an agent of the governmental contractor for

purposes of s. 768.28(9), while acting within the scope of duties under the contract, a health care provider licensed under chapter 466 may allow a patient, or a parent or guardian of the patient, to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided to the patient. This contribution may not exceed the actual cost of the dental laboratory charges.

A governmental contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.

**Section 45. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (2) of section 766.112, Florida Statutes, is reenacted to read:**

766.112 Comparative fault.—

(2) In an action for damages for personal injury or wrongful death arising out of medical negligence, whether in contract or tort, when an apportionment of damages pursuant to s. 768.81 is attributed to a board of trustees of a state university, the court shall enter judgment against the board of trustees on the basis of the board's percentage of fault and not on the basis of the doctrine of joint and several liability. The sole remedy available to a claimant to collect a judgment or settlement against a board of trustees, subject to the



provisions of this subsection, shall be pursuant to s. 768.28.

**Section 46. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (3) of section 768.1355, Florida Statutes, is reenacted to read:**

768.1355 Florida Volunteer Protection Act.—

(3) Members of elected or appointed boards, councils, and commissions of the state, counties, municipalities, authorities, and special districts shall incur no civil liability and shall have immunity from suit as provided in s. 768.28 for acts or omissions by members relating to members' conduct of their official duties. It is the intent of the Legislature to encourage our best and brightest people to serve on elected and appointed boards, councils, and commissions.

**Section 47. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (7) of section 768.1382, Florida Statutes, is reenacted to read:**

768.1382 Streetlights, security lights, and other similar illumination; limitation on liability.—

(7) In the event that there is any conflict between this section and s. 768.81, or any other section of the Florida Statutes, this section shall control. Further, nothing in this section shall impact or waive any provision of s. 768.28.

**Section 48. For the purpose of incorporating the amendment**

1626 **made by this act to section 768.28, Florida Statutes, in a**  
1627 **reference thereto, subsection (4) of section 768.295, Florida**  
1628 **Statutes, is reenacted to read:**

1629       768.295 Strategic Lawsuits Against Public Participation  
1630 (SLAPP) prohibited.—

1631       (4) A person or entity sued by a governmental entity or  
1632 another person in violation of this section has a right to an  
1633 expeditious resolution of a claim that the suit is in violation  
1634 of this section. A person or entity may move the court for an  
1635 order dismissing the action or granting final judgment in favor  
1636 of that person or entity. The person or entity may file a motion  
1637 for summary judgment, together with supplemental affidavits,  
1638 seeking a determination that the claimant's or governmental  
1639 entity's lawsuit has been brought in violation of this section.  
1640 The claimant or governmental entity shall thereafter file a  
1641 response and any supplemental affidavits. As soon as  
1642 practicable, the court shall set a hearing on the motion, which  
1643 shall be held at the earliest possible time after the filing of  
1644 the claimant's or governmental entity's response. The court may  
1645 award, subject to the limitations in s. 768.28, the party sued  
1646 by a governmental entity actual damages arising from a  
1647 governmental entity's violation of this section. The court shall  
1648 award the prevailing party reasonable attorney fees and costs  
1649 incurred in connection with a claim that an action was filed in  
1650 violation of this section.

1651       **Section 49. For the purpose of incorporating the amendment**  
1652 **made by this act to section 768.28, Florida Statutes, in a**  
1653 **reference thereto, section 946.5026, Florida Statutes, is**  
1654 **reenacted to read:**

1655       946.5026 Sovereign immunity in tort actions.—The  
1656 provisions of s. 768.28 shall be applicable to the corporation  
1657 established under this part, which is deemed to be a corporation  
1658 primarily acting as an instrumentality of the state.

1659       **Section 50. For the purpose of incorporating the amendment**  
1660 **made by this act to section 768.28, Florida Statutes, in a**  
1661 **reference thereto, Subsection (3) of section 946.514, Florida**  
1662 **Statutes, is reenacted to read:**

1663       946.514 Civil rights of inmates; inmates not state  
1664 employees; liability of corporation for inmate injuries.—

1665       (3) The corporation is liable for inmate injury to the  
1666 extent specified in s. 768.28; however, the members of the board  
1667 of directors are not individually liable to any inmate for any  
1668 injury sustained in any correctional work program operated by  
1669 the corporation.

1670       **Section 51. For the purpose of incorporating the amendment**  
1671 **made by this act to section 768.28, Florida Statutes, in a**  
1672 **reference thereto, subsection (5), paragraph (a) of subsection**  
1673 **(6), and subsection (7) of section 961.06, Florida Statutes, are**  
1674 **reenacted to read:**

1675       961.06 Compensation for wrongful incarceration.—

(5) Before the department approves the application for compensation, the wrongfully incarcerated person must sign a release and waiver on behalf of the wrongfully incarcerated person and his or her heirs, successors, and assigns, forever releasing the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to s. 768.28, from all present or future claims that the wrongfully incarcerated person or his or her heirs, successors, or assigns may have against such entities arising out of the facts in connection with the wrongful conviction for which compensation is being sought under the act.

(6) (a) A wrongfully incarcerated person may not submit an application for compensation under this act if the person has a lawsuit pending against the state or any agency, instrumentality, or any political subdivision thereof, or any other entity subject to the provisions of s. 768.28, in state or federal court requesting compensation arising out of the facts in connection with the claimant's conviction and incarceration.

(7) Any payment made under this act does not constitute a waiver of any defense of sovereign immunity or an increase in the limits of liability on behalf of the state or any person subject to the provisions of s. 768.28 or other law.

**Section 52. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (h) of subsection (12) of section**

1701 **1002.33, Florida Statutes, is reenacted to read:**

1702 1002.33 Charter schools.—

1703 (12) EMPLOYEES OF CHARTER SCHOOLS.—

1704 (h) For the purposes of tort liability, the charter  
1705 school, including its governing body and employees, shall be  
1706 governed by s. 768.28. This paragraph does not include any for-  
1707 profit entity contracted by the charter school or its governing  
1708 body.

1709 **Section 53. For the purpose of incorporating the amendment**  
1710 **made by this act to section 768.28, Florida Statutes, in a**  
1711 **reference thereto, paragraph (b) of subsection (6) of section**  
1712 **1002.333, Florida Statutes, is reenacted to read:**

1713 1002.333 Persistently low-performing schools.—

1714 (6) STATUTORY AUTHORITY.—

1715 (b) For the purposes of tort liability, the hope operator,  
1716 the school of hope, and its employees or agents shall be  
1717 governed by s. 768.28. The sponsor shall not be liable for civil  
1718 damages under state law for the employment actions or personal  
1719 injury, property damage, or death resulting from an act or  
1720 omission of a hope operator, the school of hope, or its  
1721 employees or agents. This paragraph does not include any for-  
1722 profit entity contracted by the charter school or its governing  
1723 body.

1724 **Section 54. For the purpose of incorporating the amendment**  
1725 **made by this act to section 768.28, Florida Statutes, in a**

reference thereto, subsection (17) of section 1002.34, Florida Statutes, is reenacted to read:

1002.34 Charter technical career centers.—

(17) IMMUNITY.—For the purposes of tort liability, the governing body and employees of a center are governed by s. 768.28.

**Section 55. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (c) of subsection (3) of section 1002.351, Florida Statutes, is reenacted to read:**

1002.351 The Florida School for Competitive Academics.—

(3) BOARD OF TRUSTEES.—

(c) The board of trustees is a public agency entitled to sovereign immunity pursuant to s. 768.28, and board members are public officers who bear fiduciary responsibility for the Florida School for Competitive Academics.

**Section 56. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (2) of section 1002.37, Florida Statutes, is reenacted to read:**

1002.37 The Florida Virtual School.—

(2) The Florida Virtual School shall be governed by a board of trustees comprised of seven members appointed by the Governor to 4-year staggered terms. The board of trustees shall be a public agency entitled to sovereign immunity pursuant to s.

1751 768.28, and board members shall be public officers who shall  
1752 bear fiduciary responsibility for the Florida Virtual School.  
1753 The board of trustees shall have the following powers and  
1754 duties:

1755 (a)1. The board of trustees shall meet at least 4 times  
1756 each year, upon the call of the chair, or at the request of a  
1757 majority of the membership.

1758 2. The fiscal year for the Florida Virtual School shall be  
1759 the state fiscal year as provided in s. 216.011(1)(q).

1760 (b) The board of trustees shall be responsible for the  
1761 Florida Virtual School's development of a state-of-the-art  
1762 technology-based education delivery system that is cost-  
1763 effective, educationally sound, marketable, and capable of  
1764 sustaining a self-sufficient delivery system through the Florida  
1765 Education Finance Program.

1766 (c) The board of trustees shall aggressively seek avenues  
1767 to generate revenue to support its future endeavors, and shall  
1768 enter into agreements with distance learning providers. The  
1769 board of trustees may acquire, enjoy, use, and dispose of  
1770 patents, copyrights, and trademarks and any licenses and other  
1771 rights or interests thereunder or therein. Ownership of all such  
1772 patents, copyrights, trademarks, licenses, and rights or  
1773 interests thereunder or therein shall vest in the state, with  
1774 the board of trustees having full right of use and full right to  
1775 retain the revenues derived therefrom. Any funds realized from

1776 patents, copyrights, trademarks, or licenses shall be considered  
1777 internal funds as provided in s. 1011.07. Such funds shall be  
1778 used to support the school's marketing and research and  
1779 development activities in order to improve courseware and  
1780 services to its students.

1781 (d) The board of trustees shall be responsible for the  
1782 administration and control of all local school funds derived  
1783 from all activities or sources and shall prescribe the  
1784 principles and procedures to be followed in administering these  
1785 funds.

1786 (e) The Florida Virtual School may accrue supplemental  
1787 revenue from supplemental support organizations, which include,  
1788 but are not limited to, alumni associations, foundations,  
1789 parent-teacher associations, and booster associations. The  
1790 governing body of each supplemental support organization shall  
1791 recommend the expenditure of moneys collected by the  
1792 organization for the benefit of the school. Such expenditures  
1793 shall be contingent upon the review of the executive director.  
1794 The executive director may override any proposed expenditure of  
1795 the organization that would violate Florida law or breach sound  
1796 educational management.

1797 (f) In accordance with law and rules of the State Board of  
1798 Education, the board of trustees shall administer and maintain  
1799 personnel programs for all employees of the board of trustees  
1800 and the Florida Virtual School. The board of trustees may adopt



1801 rules, policies, and procedures related to the appointment,  
1802 employment, and removal of personnel.

1803 1. The board of trustees shall determine the compensation,  
1804 including salaries and fringe benefits, and other conditions of  
1805 employment for such personnel.

1806 2. The board of trustees may establish and maintain a  
1807 personnel loan or exchange program by which persons employed by  
1808 the board of trustees for the Florida Virtual School as academic  
1809 administrative and instructional staff may be loaned to, or  
1810 exchanged with persons employed in like capacities by, public  
1811 agencies either within or without this state, or by private  
1812 industry. With respect to public agency employees, the program  
1813 authorized by this subparagraph shall be consistent with the  
1814 requirements of part II of chapter 112. The salary and benefits  
1815 of board of trustees personnel participating in the loan or  
1816 exchange program shall be continued during the period of time  
1817 they participate in a loan or exchange program, and such  
1818 personnel shall be deemed to have no break in creditable or  
1819 continuous service or employment during such time. The salary  
1820 and benefits of persons participating in the personnel loan or  
1821 exchange program who are employed by public agencies or private  
1822 industry shall be paid by the originating employers of those  
1823 participants, and such personnel shall be deemed to have no  
1824 break in creditable or continuous service or employment during  
1825 such time.

1826           3. The employment of all Florida Virtual School academic  
1827 administrative and instructional personnel shall be subject to  
1828 rejection for cause by the board of trustees, and shall be  
1829 subject to policies of the board of trustees relative to  
1830 certification, tenure, leaves of absence, sabbaticals,  
1831 remuneration, and such other conditions of employment as the  
1832 board of trustees deems necessary and proper, not inconsistent  
1833 with law.

1834           4. Each person employed by the board of trustees in an  
1835 academic administrative or instructional capacity with the  
1836 Florida Virtual School shall be entitled to a contract as  
1837 provided by rules of the board of trustees.

1838           5. All employees except temporary, seasonal, and student  
1839 employees may be state employees for the purpose of being  
1840 eligible to participate in the Florida Retirement System and  
1841 receive benefits. The classification and pay plan, including  
1842 terminal leave and other benefits, and any amendments thereto,  
1843 shall be subject to review and approval by the Department of  
1844 Management Services and the Executive Office of the Governor  
1845 prior to adoption.

1846           (g) The board of trustees shall establish priorities for  
1847 admission of students in accordance with paragraph (1)(b).

1848           (h) The board of trustees shall establish and distribute  
1849 to all school districts and high schools in the state procedures  
1850 for enrollment of students in courses offered by the Florida

1851 Virtual School.

1852       (i) The board of trustees shall establish criteria  
1853 defining the elements of an approved franchise. The board of  
1854 trustees may enter into franchise agreements with Florida  
1855 district school boards and may establish the terms and  
1856 conditions governing such agreements. The board of trustees  
1857 shall establish the performance and accountability measures and  
1858 report the performance of each school district franchise to the  
1859 Commissioner of Education.

1860       (j) The board of trustees shall submit to the State Board  
1861 of Education both forecasted and actual enrollments and credit  
1862 completions for the Florida Virtual School, according to  
1863 procedures established by the State Board of Education. At a  
1864 minimum, such procedures must include the number of public,  
1865 private, and home education students served by program and by  
1866 county of residence.

1867       (k) The board of trustees shall provide for the content  
1868 and custody of student and employee personnel records. Student  
1869 records shall be subject to the provisions of s. 1002.22.  
1870 Employee records shall be subject to the provisions of s.  
1871 1012.31.

1872       (l) The financial records and accounts of the Florida  
1873 Virtual School shall be maintained under the direction of the  
1874 board of trustees and under rules adopted by the State Board of  
1875 Education for the uniform system of financial records and

accounts for the schools of the state.

The Governor shall designate the initial chair of the board of trustees to serve a term of 4 years. Members of the board of trustees shall serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061. The board of trustees shall be a body corporate with all the powers of a body corporate and such authority as is needed for the proper operation and improvement of the Florida Virtual School. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and rules of the State Board of Education related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida Virtual School. Tangible personal property owned by the board of trustees shall be subject to the provisions of chapter 273.

**Section 57. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, paragraph (1) of subsection (3) of section 1002.55, Florida Statutes, is reenacted to read:**

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.—

(3) To be eligible to deliver the prekindergarten program,

1901 a private prekindergarten provider must meet each of the  
1902 following requirements:

1903 (1) Notwithstanding paragraph (j), for a private  
1904 prekindergarten provider that is a state agency or a subdivision  
1905 thereof, as defined in s. 768.28(2), the provider must agree to  
1906 notify the coalition of any additional liability coverage  
1907 maintained by the provider in addition to that otherwise  
1908 established under s. 768.28. The provider shall indemnify the  
1909 coalition to the extent permitted by s. 768.28. Notwithstanding  
1910 paragraph (j), for a child development program that is  
1911 accredited by a national accrediting body and operates on a  
1912 military installation that is certified by the United States  
1913 Department of Defense, the provider may demonstrate liability  
1914 coverage by affirming that it is subject to the Federal Tort  
1915 Claims Act, 28 U.S.C. ss. 2671 et seq.

1916 **Section 58. For the purpose of incorporating the amendment**  
1917 **made by this act to section 768.28, Florida Statutes, in a**  
1918 **reference thereto, subsection (10) of section 1002.83, Florida**  
1919 **Statutes, is reenacted to read:**

1920 1002.83 Early learning coalitions.—

1921 (10) For purposes of tort liability, each member or  
1922 employee of an early learning coalition shall be governed by s.  
1923 768.28.

1924 **Section 59. For the purpose of incorporating the amendment**  
1925 **made by this act to section 768.28, Florida Statutes, in a**

**reference thereto, paragraph (p) of subsection (1) of section 1002.88, Florida Statutes, is reenacted to read:**

1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(p) Notwithstanding paragraph (m), for a provider that is a state agency or a subdivision thereof, as defined in s.

768.28(2), agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

Notwithstanding paragraph (m), for a child development program that is accredited by a national accrediting body and operates on a military installation that is certified by the United States Department of Defense, the provider may demonstrate liability coverage by affirming that it is subject to the Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

**Section 60. For the purpose of incorporating the amendment made by this act to section 768.28, Florida Statutes, in a reference thereto, subsection (1) of section 1006.24, Florida Statutes, is reenacted to read:**

1006.24 Tort liability; liability insurance.—

(1) Each district school board shall be liable for tort claims arising out of any incident or occurrence involving a

1951 school bus or other motor vehicle owned, maintained, operated,  
1952 or used by the district school board to transport persons, to  
1953 the same extent and in the same manner as the state or any of  
1954 its agencies or subdivisions is liable for tort claims under s.  
1955 768.28, except that the total liability to persons being  
1956 transported for all claims or judgments of such persons arising  
1957 out of the same incident or occurrence shall not exceed an  
1958 amount equal to \$5,000 multiplied by the rated seating capacity  
1959 of the school bus or other vehicle, as determined by rules of  
1960 the State Board of Education, or \$100,000, whichever is greater.  
1961 The provisions of s. 768.28 apply to all claims or actions  
1962 brought against district school boards, as authorized in this  
1963 subsection.

1964 **Section 61. For the purpose of incorporating the amendment**  
1965 **made by this act to section 768.28, Florida Statutes, in a**  
1966 **reference thereto, paragraph (b) of subsection (2) of section**  
1967 **1006.261, Florida Statutes, is reenacted to read:**

1968 1006.261 Use of school buses for public purposes.—

1969 (2)

1970 (b) For purposes of liability for negligence, state  
1971 agencies or subdivisions as defined in s. 768.28(2) shall be  
1972 covered by s. 768.28. Every other corporation or organization  
1973 shall provide liability insurance coverage in the minimum  
1974 amounts of \$100,000 on any claim or judgment and \$200,000 on all  
1975 claims and judgments arising from the same incident or

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1976 | occurrence.

1977 |       **Section 62.**   This act shall take effect October 1, 2025.