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1
2 An act relating to claims against the government;
3 amending s. 768.28, F.S.; increasing the statutory
4 limits on the liability of the state and its agencies
5 and subdivisions for tort claims; revising exceptions
6 relating to instituting actions on tort claims against
7 the state or one of its agencies or subdivisions;
8 revising the period after which the failure of certain
9 entities to make a final disposition of a claim shall
10 be deemed a final denial of the claim for certain
11 purposes; revising the statute of limitations for tort
12 claims against the state or one of its agencies or
13 subdivisions and exceptions thereto; deleting obsolete
14 language; making technical changes; providing
15 applicability; amending ss. 29.0081, 39.8297, 343.811,
16 and 944.713, F.S.; conforming cross references;
17 conforming provisions to changes made by the act;
18 reenacting ss. 45.061(5), 95.11(6)(f), 110.504(4),
19 111.071(1)(a), 125.01015(2)(b), 163.01(3)(h) and
20 (15)(k), 190.043, 213.015(13), 252.51, 252.89,
21 252.944, 260.0125(2), 284.31, 284.38, 322.13(1)(b),
22 337.19(1), 341.302(17), 343.811(3), 351.03(4)(c),
23 373.1395(6), 375.251(3)(a), 381.0056(9), 393.075(3),
24 394.9085(7), 395.1055(10)(g), 403.706(17)(c),
25 409.175(15)(b), 409.993(1), (2)(a), and (3)(a),

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26 | 420.504(8), 455.221(3), 455.32(5), 456.009(3),
 27 | 456.076(15)(a), 471.038(3), 472.006(11)(b),
 28 | 497.167(7), 513.118(2), 548.046(1), 556.106(8),
 29 | 589.19(4)(e), 627.7491(3) and (4), 723.0611(2)(c),
 30 | 760.11(5), 766.1115(4), 766.112(2), 768.1355(3),
 31 | 768.1382(7), 768.295(4), 946.5026, 946.514(3),
 32 | 961.06(8), 984.09(3), 1002.33(12)(h), 1002.333(6)(b),
 33 | 1002.34(17), 1002.37(2), 1002.55(3)(1), 1002.83(10),
 34 | 1002.88(1)(p), 1006.24(1), and 1006.261(2)(b), F.S.,
 35 | relating to offers of settlement; limitations other
 36 | than for the recovery of real property; volunteer
 37 | benefits; payment of judgments or settlements against
 38 | certain public officers or employees; office of the
 39 | sheriff; the Florida Interlocal Cooperation Act of
 40 | 1969; suits against community development districts;
 41 | taxpayer rights; liability; tort liability; tort
 42 | liability; limitation on liability of private
 43 | landowners whose property is designated as part of the
 44 | statewide system of greenways and trails; scope and
 45 | types of coverages; effect of waiver of sovereign
 46 | immunity; driver license examiners; suits by and
 47 | against the Department of Transportation; rail
 48 | program; power to assume indemnification and insurance
 49 | obligations; railroad-highway grade-crossing warning
 50 | signs and signals; limitation on liability of a water

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51 management district with respect to areas made
52 available to the public for recreational purposes
53 without charge; limitation on liability of persons
54 making available to the public certain areas for
55 recreational purposes without charge; school health
56 services program; general liability coverage;
57 behavioral provider liability; rules and enforcement;
58 local government solid waste responsibilities;
59 licensure of family foster homes, residential child-
60 caring agencies, and child-placing agencies; lead
61 agencies and subcontractor liability; the Florida
62 Housing Finance Corporation; legal and investigative
63 services; the Management Privatization Act; legal and
64 investigative services; impaired practitioner
65 programs; the Florida Engineers Management
66 Corporation; the Department of Agriculture and
67 Consumer Services; administrative matters; conduct on
68 premises and refusal of service; physician's
69 attendance at match; liability of the member operator,
70 excavator, and system; creation of certain state
71 forests, naming of certain state forests, and the
72 Operation Outdoor Freedom Program; official law
73 enforcement vehicles and motor vehicle insurance
74 requirements; the Florida Mobile Home Relocation
75 Corporation; administrative and civil remedies and

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76 construction; health care providers and creation of
 77 agency relationship with governmental contractors;
 78 comparative fault; the Florida Volunteer Protection
 79 Act; streetlights, security lights, and other similar
 80 illumination and limitation on liability; Strategic
 81 Lawsuits Against Public Participation (SLAPP)
 82 prohibited; sovereign immunity in tort actions;
 83 liability of corporation for inmate injuries;
 84 compensation for wrongful incarceration; punishment
 85 for contempt of court and alternative sanctions;
 86 charter schools; persistently low-performing schools;
 87 charter technical career centers; the Florida Virtual
 88 School; school-year prekindergarten program delivered
 89 by private prekindergarten providers; early learning
 90 coalitions; school readiness program provider
 91 standards and eligibility to deliver the school
 92 readiness program; tort liability and liability
 93 insurance; and use of school buses for public
 94 purposes, respectively, to incorporate changes made to
 95 s. 768.28, F.S., in references thereto; providing an
 96 effective date.

97

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

99

100 Section 1. Section 768.28, Florida Statutes, is amended to

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101 read:

102 768.28 Waiver of sovereign immunity in tort actions;
 103 recovery limits; civil liability for damages caused during a
 104 riot; limitation on attorney fees; statute of limitations;
 105 exclusions; indemnification; risk management programs.—

106 (1) In accordance with s. 13, Art. X of the State
 107 Constitution, the state, for itself and for its agencies or
 108 subdivisions, hereby waives sovereign immunity for liability for
 109 torts, but only to the extent specified in this section ~~act~~.
 110 Actions at law against the state or any of its agencies or
 111 subdivisions to recover damages in tort for money damages
 112 against the state or its agencies or subdivisions for injury or
 113 loss of property, personal injury, or death caused by the
 114 negligent or wrongful act or omission of any employee of the
 115 agency or subdivision while acting within the scope of the
 116 employee's office or employment under circumstances in which the
 117 state or such agency or subdivision, if a private person, would
 118 be liable to the claimant, in accordance with the general laws
 119 of this state, may be prosecuted subject to the limitations
 120 specified in this section ~~act~~. Any authorized ~~such~~ action may be
 121 brought in the county where the property in litigation is
 122 located or, if the affected agency or subdivision has an office
 123 in the ~~such~~ county for the transaction of its customary
 124 business, where the cause of action accrued. However, an ~~any~~
 125 ~~such~~ action against a state university board of trustees must

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126 ~~shall~~ be brought in the county in which that university's main
 127 campus is located or in the county in which the cause of action
 128 accrued if the university maintains ~~therein~~ a substantial
 129 presence for the transaction of its customary business in that
 130 county.

131 (2) As used in this act, "state agencies or subdivisions"
 132 include the executive departments, the Legislature, the judicial
 133 branch (including public defenders), and the independent
 134 establishments of the state, including state university boards
 135 of trustees; counties and municipalities; and corporations
 136 primarily acting as instrumentalities or agencies of the state,
 137 counties, or municipalities, including the Florida Space
 138 Authority.

139 (3) Except for a municipality and the Florida Space
 140 Authority, the affected agency or subdivision may, at its
 141 discretion, request the assistance of the Department of
 142 Financial Services in the consideration, adjustment, and
 143 settlement of any claim under this section ~~act~~.

144 (4) Subject to the provisions of this section, any state
 145 agency or subdivision may ~~shall have the right to~~ appeal any
 146 award, compromise, settlement, or determination to the court of
 147 appropriate jurisdiction.

148 (5) (a) The state and its agencies and subdivisions are
 149 ~~shall be~~ liable for tort claims in the same manner and to the
 150 same extent as a private individual under like circumstances,

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151 but liability may ~~shall~~ not include punitive damages or interest
152 for the period before judgment. ~~Neither~~ The state and ~~nor~~ its
153 agencies or subdivisions are not ~~shall be~~ liable to pay a claim
154 or a judgment by any one person which exceeds the sum of
155 \$350,000 ~~\$200,000~~ or any claim or judgment, or portions of a
156 claim or judgment ~~thereof~~, which, when totaled with all other
157 claims or judgments paid by the state or its agencies or
158 subdivisions arising out of the same incident or occurrence,
159 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or
160 judgments may be claimed and rendered in excess of these amounts
161 and may be settled and paid pursuant to this section ~~act~~ up to
162 \$350,000 ~~\$200,000~~ or \$500,000. ~~Any \$300,000, as the case may be,~~
163 ~~and that~~ portion of the judgment that exceeds these amounts may
164 be reported to the Legislature, but may be paid in part or in
165 whole only by further act of the Legislature.

166 (b) Notwithstanding the limited waiver of sovereign
167 immunity in paragraph (a) ~~provided herein~~, the state or an
168 agency or subdivision of the state ~~thereof~~ may agree, within the
169 limits of insurance coverage provided, to settle a claim made or
170 a judgment rendered against it without further action by the
171 Legislature, but the state or agency or subdivision of the state
172 may ~~thereof shall~~ not be deemed to have waived any defense of
173 sovereign immunity or to have increased the limits of its
174 liability as a result of its obtaining insurance coverage for
175 tortious acts in excess of the \$350,000 ~~\$200,000~~ or \$500,000

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176 | ~~\$300,000~~ waiver in paragraph (a) ~~provided above~~.

177 | (c) The limitations of liability ~~set forth~~ in this
 178 | subsection ~~shall~~ apply to the state and its agencies and
 179 | subdivisions whether or not the state or its agencies or
 180 | subdivisions possessed sovereign immunity before July 1, 1974.

181 | (d) ~~(b)~~ A municipality has a duty to allow the municipal
 182 | law enforcement agency to respond appropriately to protect
 183 | persons and property during a riot or an unlawful assembly based
 184 | on the availability of adequate equipment to its municipal law
 185 | enforcement officers and relevant state and federal laws. If the
 186 | governing body of a municipality or a person authorized by the
 187 | governing body of the municipality breaches that duty, the
 188 | municipality is civilly liable for any damages, including
 189 | damages arising from personal injury, wrongful death, or
 190 | property damages proximately caused by the municipality's breach
 191 | of duty. The sovereign immunity recovery limits in paragraph (a)
 192 | do not apply to an action under this paragraph.

193 | (6) (a) An action may not be instituted on a claim against
 194 | the state or one of its agencies or subdivisions unless the
 195 | claimant presents the claim in writing to the appropriate
 196 | agency, and also, except as to any claim against a municipality,
 197 | county, or the Florida Space Authority, presents the ~~such~~ claim
 198 | in writing to the Department of Financial Services, within 18
 199 | months ~~3 years~~ after the ~~such~~ claim accrues and the Department
 200 | of Financial Services or the appropriate agency denies the claim

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201 in writing; except that, if:

202 1. The ~~Such~~ claim is for contribution pursuant to s.
203 768.31, it must be ~~se~~ presented within 6 months after the
204 judgment against the tortfeasor seeking contribution has become
205 final by lapse of time for appeal or after appellate review or,
206 if there is no final ~~such~~ judgment, within 6 months after the
207 tortfeasor seeking contribution has either discharged the common
208 liability by payment or agreed, while the action is pending
209 against her or him, to discharge the common liability; or

210 2. The ~~Such~~ action arises from a violation of s. 794.011
211 involving a victim who was younger than 16 years of age at the
212 time of the act, the claimant may present the claim in writing
213 at any time. This subparagraph applies to any action other than
214 an action that would have been time barred on or before October
215 1, 2026 ~~is for wrongful death, the claimant must present the~~
216 ~~claim in writing to the Department of Financial Services within~~
217 ~~2 years after the claim accrues.~~

218 (b) For purposes of this section, the requirements of
219 notice to the agency and denial of the claim pursuant to
220 paragraph (a) are conditions precedent to maintaining an action
221 but may ~~shall~~ not be deemed to be elements of the cause of
222 action and do ~~shall~~ not affect the date on which the cause of
223 action accrues.

224 (c) The claimant shall also provide to the agency the
225 claimant's date and place of birth and social security number if

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226 the claimant is an individual, or a federal identification
227 number if the claimant is not an individual. The claimant shall
228 also state the case style, tribunal, the nature and amount of
229 all adjudicated penalties, fines, fees, victim restitution fund,
230 and other judgments in excess of \$200, whether imposed by a
231 civil, criminal, or administrative tribunal, owed by the
232 claimant to the state, its agency, officer or subdivision. If
233 there exists no prior adjudicated unpaid claim in excess of
234 \$200, the claimant shall so state.

235 (d) For purposes of this section, complete, accurate, and
236 timely compliance with the requirements of paragraph (c) must
237 ~~shall occur~~ before ~~prior to~~ settlement payment, close of
238 discovery, or commencement of trial, whichever is earlier
239 ~~sooner~~; provided the ability to plead setoff is not precluded by
240 the delay. This setoff applies ~~shall apply~~ only against that
241 part of the settlement or judgment payable to the claimant,
242 minus claimant's reasonable attorney ~~attorney's~~ fees and costs.
243 Incomplete or inaccurate disclosure of unpaid adjudicated claims
244 due the state, or ~~or~~ its agency, officer, or subdivision, may be
245 excused by the court upon a showing by the preponderance of the
246 evidence of the claimant's lack of knowledge of an adjudicated
247 claim and reasonable inquiry by, or on behalf of, the claimant
248 to obtain the information from public records. Unless the
249 appropriate agency had actual notice of the information required
250 to be disclosed by paragraph (c) in time to assert a setoff, an

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251 unexcused failure to disclose shall, upon hearing and order of
 252 court, cause the claimant to be liable for double the original
 253 undisclosed judgment and, upon further motion, the court shall
 254 enter judgment for the agency in that amount. Except as provided
 255 otherwise in this subsection, the failure of the Department of
 256 Financial Services or the appropriate agency to make final
 257 disposition of a claim within 4 ~~6~~ months after it is filed shall
 258 be deemed a final denial of the claim for purposes of this
 259 section. For purposes of this subsection, in medical malpractice
 260 actions and in wrongful death actions, the failure of the
 261 Department of Financial Services or the appropriate agency to
 262 make final disposition of a claim within 90 days after it is
 263 filed shall be deemed a final denial of the claim. The statute
 264 of limitations ~~for medical malpractice actions and wrongful~~
 265 ~~death actions~~ is tolled as to all prospective defendants for the
 266 period of time taken by the Department of Financial Services or
 267 the appropriate agency to deny the claim. ~~The provisions of This~~
 268 subsection does ~~do~~ not apply to ~~such~~ claims that ~~as~~ may be
 269 asserted by counterclaim pursuant to s. 768.14.

270 (7) In actions brought pursuant to this section, process
 271 must ~~shall~~ be served upon the head of the agency concerned and
 272 also, except as to a defendant municipality, county, or the
 273 Florida Space Authority, upon the Department of Financial
 274 Services. ~~and~~ The department or the agency served has ~~concerned~~
 275 ~~shall have~~ 30 days within which to file responsive pleadings

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276 ~~plead thereto.~~

277 (8) An ~~No~~ attorney may not charge, demand, receive, or
 278 collect, for services rendered, fees in excess of 25 percent of
 279 any funds recovered as a result of judgment or settlement.

280 (9) (a) An officer, employee, or agent of the state or of
 281 any of its subdivisions may not be held personally liable in
 282 tort or named as a party defendant in any action for any injury
 283 or damage suffered as a result of any act, event, or omission of
 284 action in the scope of her or his employment or function, unless
 285 the ~~such~~ officer, employee, or agent acted in bad faith or with
 286 malicious purpose or in a manner exhibiting wanton and willful
 287 disregard of human rights, safety, or property. However, the
 288 ~~such~~ officer, employee, or agent shall be considered an adverse
 289 witness in a tort action for any injury or damage suffered as a
 290 result of any act, event, or omission of action in the scope of
 291 her or his employment or function. The exclusive remedy for
 292 injury or damage suffered as a result of an act, event, or
 293 omission of an officer, employee, or agent of the state or any
 294 of its subdivisions or constitutional officers is by action
 295 against the governmental entity, or the head of such entity in
 296 her or his official capacity, or the constitutional officer of
 297 which the officer, employee, or agent is an employee, unless the
 298 ~~such~~ act or omission was committed in bad faith or with
 299 malicious purpose or in a manner exhibiting wanton and willful
 300 disregard of human rights, safety, or property. The state or its

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301 subdivisions are not liable in tort for the acts or omissions of
302 an officer, employee, or agent committed while acting outside
303 the course and scope of her or his employment or committed in
304 bad faith or with malicious purpose or in a manner exhibiting
305 wanton and willful disregard of human rights, safety, or
306 property.

307 (b) As used in this subsection, the term:

308 1. "Employee" includes any volunteer firefighter.

309 2. "Officer, employee, or agent" includes, but is not
310 limited to, any health care provider when providing services
311 pursuant to s. 766.1115; any nonprofit independent college or
312 university located and chartered in this state which owns or
313 operates an accredited medical school, and its employees or
314 agents, when providing patient services pursuant to paragraph
315 (10)(f); any public defender or her or his employee or agent,
316 including an assistant public defender or an investigator; and
317 any member of a Child Protection Team, as defined in s. 39.01,
318 or any member of a threat management team, as described in s.
319 1006.07(7), when carrying out her or his duties as a team member
320 under the control, direction, and supervision of the state or
321 any of its agencies or subdivisions.

322 (c) For purposes of the waiver of sovereign immunity only,
323 a member of the Florida National Guard is not acting within the
324 scope of state employment when performing duty under the
325 provisions of Title 10 or Title 32 of the United States Code or

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326 other applicable federal law; and ~~neither~~ the state or ~~nor~~ any
 327 individual may not be named in any action under this chapter
 328 arising from the performance of such federal duty.

329 (d) The employing agency of a law enforcement officer as
 330 defined in s. 943.10 is not liable for injury, death, or
 331 property damage effected or caused by a person fleeing from a
 332 law enforcement officer in a motor vehicle if:

333 1. The pursuit is conducted in a manner that does not
 334 involve conduct by the officer which is so reckless or wanting
 335 in care as to constitute disregard of human life, human rights,
 336 safety, or the property of another;

337 2. At the time the law enforcement officer initiates the
 338 pursuit, the officer reasonably believes that the person fleeing
 339 has committed a forcible felony as defined in s. 776.08; and

340 3. The pursuit is conducted by the officer pursuant to a
 341 written policy governing high-speed pursuit adopted by the
 342 employing agency. The policy must contain specific procedures
 343 concerning the proper method to initiate and terminate high-
 344 speed pursuit. The law enforcement officer must have received
 345 instructional training from the employing agency on the written
 346 policy governing high-speed pursuit.

347 (10) (a) Health care providers or vendors, or any of their
 348 employees or agents, that have contractually agreed to act as
 349 agents of the Department of Corrections to provide health care
 350 services to inmates of the state correctional system shall be

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351 considered agents of the State of Florida, Department of
 352 Corrections, for the purposes of this section, while acting
 353 within the scope of and pursuant to guidelines established in
 354 their contracts ~~said contract~~ or by rule. The contracts must
 355 ~~shall~~ provide for the indemnification of the state by the agent
 356 for any liabilities incurred up to the limits set out in this
 357 chapter.

358 (b) This subsection may ~~shall~~ not be construed as
 359 designating persons providing contracted health care services to
 360 inmates as employees or agents of the state for the purposes of
 361 chapter 440.

362 (c) For purposes of this section, regional poison control
 363 centers created in accordance with s. 395.1027 and coordinated
 364 and supervised under the Division of Children's Medical Services
 365 Prevention and Intervention of the Department of Health, or any
 366 of their employees or agents, shall be considered agents of the
 367 State of Florida, Department of Health. Any contracts with
 368 poison control centers must provide, to the extent permitted by
 369 law, for the indemnification of the state by the agency for any
 370 liabilities incurred up to the limits set out in this chapter.

371 (d) For the purposes of this section, operators,
 372 dispatchers, and providers of security for rail services and
 373 rail facility maintenance providers in the South Florida Rail
 374 Corridor, or any of their employees or agents, performing ~~such~~
 375 services under contract with and on behalf of the South Florida

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376 Regional Transportation Authority or the Department of
 377 Transportation shall be considered agents of the state while
 378 acting within the scope of and pursuant to guidelines
 379 established in their contracts ~~said contract~~ or by rule.

380 (e) For purposes of this section, a professional firm that
 381 provides monitoring and inspection services of the work required
 382 for state roadway, bridge, or other transportation facility
 383 construction projects, or any employee of a firm performing
 384 those ~~such~~ services, is considered an agent of the Department of
 385 Transportation while acting within the scope of the firm's
 386 contract with the Department of Transportation to ensure that
 387 the project is constructed in conformity with the project's
 388 plans, specifications, and contract provisions. This paragraph
 389 applies to a professional firm that is in direct contract with
 390 the Department of Transportation, as well as any professional
 391 firm providing monitoring and inspection services as a
 392 consultant to the professional firm that is in direct contract
 393 with the Department of Transportation. Any contract with a
 394 professional firm must, to the extent permitted by law, provide
 395 for the indemnification of the Department of Transportation for
 396 any liability, including reasonable attorney fees, incurred up
 397 to the limits set out in this chapter to the extent caused by
 398 the negligence of the firm or its employees. This paragraph may
 399 not be construed as designating persons who provide monitoring
 400 and inspection services as employees or agents of the state for

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401 purposes of chapter 440. This paragraph is not applicable to the
402 professional firm or its employees if involved in an accident
403 while operating a motor vehicle. This paragraph is not
404 applicable to a firm engaged by the Department of Transportation
405 for the design or construction of a state roadway, bridge, or
406 other transportation facility construction project or to its
407 employees, agents, or subcontractors.

408 (f) For purposes of this section, any nonprofit
409 independent college or university located and chartered in this
410 state which owns or operates an accredited medical school, or
411 any of its employees or agents, and which has agreed in an
412 affiliation agreement or other contract to provide, or permit
413 its employees or agents to provide, patient services as agents
414 of a teaching hospital, is considered an agent of the teaching
415 hospital while acting within the scope of and pursuant to
416 guidelines established in the affiliation agreement or other
417 contract. To the extent allowed by law, the contract must
418 provide for the indemnification of the teaching hospital, up to
419 the limits set out in this chapter, by the agent for any
420 liability incurred which was caused by the negligence of the
421 college or university or its employees or agents. The contract
422 must also provide that those limited portions of the college,
423 university, or medical school which are directly providing
424 services pursuant to the contract and which are considered an
425 agent of the teaching hospital for purposes of this section are

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426 deemed to be acting on behalf of a public agency as defined in
 427 s. 119.011(2).

428 1. For purposes of this paragraph, the term:

429 a. "Employee or agent" means an officer, employee, agent,
 430 or servant of a nonprofit independent college or university
 431 located and chartered in this state which owns or operates an
 432 accredited medical school, including, but not limited to, the
 433 faculty of the medical school, any health care practitioner or
 434 licensee as defined in s. 456.001 for which the college or
 435 university is vicariously liable, and the staff or
 436 administrators of the medical school.

437 b. "Patient services" means:

438 (I) Comprehensive health care services as defined in s.
 439 641.19, including any related administrative service, provided
 440 to patients in a teaching hospital;

441 (II) Training and supervision of interns, residents, and
 442 fellows providing patient services in a teaching hospital; or

443 (III) Training and supervision of medical students in a
 444 teaching hospital.

445 c. "Teaching hospital" means a teaching hospital as
 446 defined in s. 408.07 which is owned or operated by the state, a
 447 county or municipality, a public health trust, a special taxing
 448 district, a governmental entity having health care
 449 responsibilities, or a not-for-profit entity that operates such
 450 facility as an agent of the state, or a political subdivision of

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451 the state, under a lease or other contract.

452 2. The teaching hospital or the medical school, or its
453 employees or agents, must provide notice to each patient, or the
454 patient's legal representative, that the college or university
455 that owns or operates the medical school and the employees or
456 agents of that college or university are acting as agents of the
457 teaching hospital and that the exclusive remedy for injury or
458 damage suffered as the result of any act or omission of the
459 teaching hospital, the college or university that owns or
460 operates the medical school, or the employees or agents of the
461 college or university, while acting within the scope of duties
462 pursuant to the affiliation agreement or other contract with a
463 teaching hospital, is by commencement of an action pursuant to
464 the provisions of this section. This notice requirement may be
465 met by posting the notice in a place conspicuous to all persons.

466 3. This paragraph does not designate any employee
467 providing contracted patient services in a teaching hospital as
468 an employee or agent of the state for purposes of chapter 440.

469 (g) For the purposes of this section, the executive
470 director of the Board of Nursing, when serving as the state
471 administrator of the Nurse Licensure Compact pursuant to s.
472 464.0095, and any administrator, officer, executive director,
473 employee, or representative of the Interstate Commission of
474 Nurse Licensure Compact Administrators, when acting within the
475 scope of their employment, duties, or responsibilities in this

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476 | state, are considered agents of the state. The commission shall
477 | pay any claims or judgments pursuant to this section and may
478 | maintain insurance coverage to pay any such claims or judgments.

479 | (h) For purposes of this section, the individual appointed
480 | under s. 491.004(8) as the state's delegate on the Counseling
481 | Compact Commission, when serving in that capacity pursuant to s.
482 | 491.017, and any administrator, officer, executive director,
483 | employee, or representative of the commission, when acting
484 | within the scope of his or her employment, duties, or
485 | responsibilities in this state, is considered an agent of the
486 | state. The commission shall pay any claims or judgments pursuant
487 | to this section and may maintain insurance coverage to pay those
488 | ~~any such~~ claims or judgments.

489 | (i) For purposes of this section, the individual appointed
490 | under s. 490.004(7) as the state's commissioner on the
491 | Psychology Interjurisdictional Compact Commission, when serving
492 | in that capacity pursuant to s. 490.0075, and any administrator,
493 | officer, executive director, employee, or representative of the
494 | Psychology Interjurisdictional Compact Commission, when acting
495 | within the scope of his or her employment, duties, or
496 | responsibilities in this state, is considered an agent of the
497 | state. The commission shall pay any claims or judgments pursuant
498 | to this section and may maintain insurance coverage to pay those
499 | ~~any such~~ claims or judgments.

500 | (j) For purposes of this section, the representative

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501 appointed from the Board of Medicine and the representative
 502 appointed from the Board of Osteopathic Medicine, when serving
 503 as commissioners of the Interstate Medical Licensure Compact
 504 Commission pursuant to s. 456.4501, and any administrator,
 505 officer, executive director, employee, or representative of the
 506 Interstate Medical Licensure Compact Commission, when acting
 507 within the scope of their employment, duties, or
 508 responsibilities in this state, are considered agents of the
 509 state. The commission shall pay any claims or judgments pursuant
 510 to this section and may maintain insurance coverage to pay those
 511 ~~any such~~ claims or judgments.

512 (k) For purposes of this section, the individuals
 513 appointed under s. 468.1135(4) as the state's delegates on the
 514 Audiology and Speech-Language Pathology Interstate Compact
 515 Commission, when serving in that capacity pursuant to s.
 516 468.1335, and any administrator, officer, executive director,
 517 employee, or representative of the commission, when acting
 518 within the scope of his or her employment, duties, or
 519 responsibilities in this state, is considered an agent of the
 520 state. The commission shall pay any claims or judgments pursuant
 521 to this section and may maintain insurance coverage to pay those
 522 ~~any such~~ claims or judgments.

523 (l) For purposes of this section, the individual appointed
 524 under s. 486.023(5) as the state's delegate on the Physical
 525 Therapy Compact Commission, when serving in that capacity

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526 | pursuant to s. 486.112, and any administrator, officer,
 527 | executive director, employee, or representative of the Physical
 528 | Therapy Compact Commission, when acting within the scope of his
 529 | or her employment, duties, or responsibilities in this state, is
 530 | considered an agent of the state. The commission shall pay any
 531 | claims or judgments pursuant to this section and may maintain
 532 | insurance coverage to pay those ~~any such~~ claims or judgments.

533 | (11) (a) Providers or vendors, or any of their employees or
 534 | agents, that have contractually agreed to act on behalf of the
 535 | state as agents of the Department of Juvenile Justice to provide
 536 | services to children in need of services, families in need of
 537 | services, or juvenile offenders are, solely with respect to such
 538 | services, agents of the state for purposes of this section while
 539 | acting within the scope of and pursuant to guidelines
 540 | established in the contract or by rule. A contract must provide
 541 | for the indemnification of the state by the agent for any
 542 | liabilities incurred up to the limits set out in this chapter.

543 | (b) This subsection does not designate a person who
 544 | provides contracted services to juvenile offenders as an
 545 | employee or agent of the state for purposes of chapter 440.

546 | (12) (a) A health care practitioner, as defined in s.
 547 | 456.001(4), who has contractually agreed to act as an agent of a
 548 | state university board of trustees to provide medical services
 549 | to a student athlete for participation in or as a result of
 550 | intercollegiate athletics, to include team practices, training,

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551 and competitions, shall be considered an agent of the respective
552 state university board of trustees, for the purposes of this
553 section, while acting within the scope of and pursuant to
554 guidelines established in that contract. The contracts must
555 ~~shall~~ provide for the indemnification of the state by the agent
556 for any liabilities incurred up to the limits set out in this
557 chapter.

558 (b) This subsection may ~~shall~~ not be construed as
559 designating persons providing contracted health care services to
560 athletes as employees or agents of a state university board of
561 trustees for the purposes of chapter 440.

562 (13) Laws allowing the state or its agencies or
563 subdivisions to buy insurance are still in force and effect and
564 are not restricted in any way by the terms of this section ~~act~~.

565 (14) A ~~Every~~ claim against the state or one of its
566 agencies or subdivisions for damages for a negligent or wrongful
567 act or omission pursuant to this section is ~~shall be forever~~
568 barred unless the civil action is commenced by filing a
569 complaint in the court of appropriate jurisdiction:

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

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

573 (c) Within the limitations provided in s. 95.11(5) for an
574 action for damages arising from medical malpractice or wrongful
575 death.

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576 (d) At any time for an action arising from an act
 577 constituting a violation of s. 794.011 involving a victim who
 578 was under the age of 16 years at the time of the act. This
 579 paragraph applies to any such action other than an action that
 580 would have been time barred on or before October 1, 2026.

581 (e) Within 4 years for any other action not specified in
 582 this subsection 4 years after the such claim accrues; except
 583 that an action for contribution must be commenced within the
 584 limitations provided in s. 768.31(4), and an action for damages
 585 arising from medical malpractice or wrongful death must be
 586 commenced within the limitations for such actions in s.
 587 95.11(5).

588 (15) An ~~No~~ action may not be brought against the state or
 589 any of its agencies or subdivisions by anyone who unlawfully
 590 participates in a riot, unlawful assembly, public demonstration,
 591 mob violence, or civil disobedience if the claim arises out of
 592 the such riot, unlawful assembly, public demonstration, mob
 593 violence, or civil disobedience. ~~Nothing in~~ This subsection does
 594 not act shall abridge traditional immunities pertaining to
 595 statements made in court.

596 (16) (a) The state and its agencies and subdivisions are
 597 authorized to be self-insured, to enter into risk management
 598 programs, or to purchase liability insurance for whatever
 599 coverage they may choose, or to have any combination thereof, in
 600 anticipation of any claim, judgment, and claims bill that which

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601 they may be liable to pay pursuant to this section. Agencies or
602 subdivisions, and sheriffs, that are subject to homogeneous
603 risks may purchase insurance jointly or may join together as
604 self-insurers to provide other means of protection against tort
605 claims, any charter provisions or laws to the contrary
606 notwithstanding.

607 (b) Claims files maintained by any risk management program
608 administered by the state, its agencies, and its subdivisions
609 are confidential and exempt from the provisions of s. 119.07(1)
610 and s. 24(a), Art. I of the State Constitution until termination
611 of all litigation and settlement of all claims arising out of
612 the same incident, although portions of the claims files may
613 remain exempt, as otherwise provided by law. Claims files
614 records may be released to other governmental agencies upon
615 written request and demonstration of need. Any,~~such~~ records
616 held by the receiving agency remain confidential and exempt as
617 provided ~~for~~ in this paragraph.

618 (c) Portions of meetings and proceedings conducted
619 pursuant to any risk management program administered by the
620 state, its agencies, or its subdivisions, which relate solely to
621 the evaluation of claims filed with the risk management program
622 or which relate solely to offers of compromise of claims filed
623 with the risk management program are exempt from the provisions
624 of s. 286.011 and s. 24(b), Art. I of the State Constitution.
625 Until termination of all litigation and settlement of all claims

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626 arising out of the same incident, persons privy to discussions
 627 pertinent to the evaluation of a filed claim are ~~shall~~ not be
 628 subject to subpoena in any administrative or civil proceeding
 629 with regard to the content of those discussions.

630 (d) Minutes of the meetings and proceedings of any risk
 631 management program administered by the state, its agencies, or
 632 its subdivisions, which relate solely to the evaluation of
 633 claims filed with the risk management program or which relate
 634 solely to offers of compromise of claims filed with the risk
 635 management program are exempt from ~~the provisions of~~ s.
 636 119.07(1) and s. 24(a), Art. I of the State Constitution until
 637 termination of all litigation and settlement of all claims
 638 arising out of the same incident.

639 (17) ~~This section, as amended by chapter 81-317, Laws of~~
 640 ~~Florida, shall apply only to causes of actions which accrue on~~
 641 ~~or after October 1, 1981.~~

642 ~~(18)~~ A ~~No~~ provision of this section, or of any other
 643 section of the Florida Statutes, whether read separately or in
 644 conjunction with any other provision, may not ~~shall~~ be construed
 645 to waive the immunity of the state or any of its agencies from
 646 suit in federal court, as that ~~such~~ immunity is guaranteed by
 647 the Eleventh Amendment to the Constitution of the United States,
 648 unless the ~~such~~ waiver is explicitly and definitely stated to be
 649 a waiver of the immunity of the state and its agencies from suit
 650 in federal court. This subsection may ~~shall~~ not be construed to

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651 mean that the state has at any time previously waived, by
 652 implication, its immunity, or that of any of its agencies, from
 653 suit in federal court through any statute in existence before
 654 ~~prior to~~ June 24, 1984.

655 (18)~~(19)~~ ~~Neither~~ The state or an ~~nor any~~ agency or
 656 subdivision of the state does not waive ~~waives~~ any defense of
 657 sovereign immunity, or increase ~~increases~~ the limits of its
 658 liability, upon entering into a contract ~~contractual~~
 659 ~~relationship~~ with another agency or subdivision of the state.
 660 The ~~Such a~~ contract may ~~must~~ not contain any provision that
 661 requires one party to indemnify or insure the other party for
 662 the other party's negligence or to assume any liability for the
 663 other party's negligence. This does not preclude a party from
 664 requiring a nongovernmental entity to provide ~~such~~
 665 indemnification or insurance. The restrictions of this
 666 subsection do not prohibit ~~prevent~~ a regional water supply
 667 authority from indemnifying and assuming the liabilities of its
 668 member governments for obligations arising from past acts or
 669 omissions at or with property acquired from a member government
 670 by the authority and arising from the acts or omissions of the
 671 authority in performing activities contemplated by an interlocal
 672 agreement. The ~~Such~~ indemnification may not be considered to
 673 increase or otherwise waive the limits of liability to third-
 674 party claimants established by this section.

675 (19)~~(20)~~ Every municipality, and any of its agencies

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676 ~~agency thereof, may is authorized to undertake to~~ indemnify
677 those employees who ~~that~~ are exposed to personal liability
678 pursuant to the Clean Air Act Amendments of 1990, 42 U.S.C.A.
679 ss. 7401 et seq., and all rules and regulations adopted to
680 implement that act, for acts performed within the course and
681 scope of their employment with the municipality or its agency,
682 including, but not limited to, indemnification pertaining to the
683 holding, transfer, or disposition of allowances allocated to the
684 municipality's or its agency's electric generating units, and
685 the monitoring, submission, certification, and compliance with
686 permits, permit applications, records, compliance plans, and
687 reports for those units, when those ~~such~~ acts are performed
688 within the course and scope of their employment with the
689 municipality or its agency. The authority to indemnify under
690 this section covers every act by an employee which is ~~when such~~
691 ~~act~~ is performed within the course and scope of her or his
692 employment with the municipality or its agency, but does not
693 cover any act of willful misconduct or any intentional or
694 knowing violation of any law by the employee. The authority to
695 indemnify under this section includes, but is not limited to,
696 the authority to pay any fine and provide legal representation
697 in any action.

698 Section 2. This act applies to causes of action that
699 accrue on or after October 1, 2026.

700 Section 3. Paragraph (b) of subsection (2) of section

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701 29.0081, Florida Statutes, is amended to read:

702 29.0081 County funding of additional court personnel.—

703 (2) The agreement shall, at a minimum, provide that:

704 (b) The personnel whose employment is funded under the
 705 agreement are hired, supervised, managed, and fired by personnel
 706 of the judicial circuit. The county shall be considered the
 707 employer for purposes of s. 440.10 and chapter 443. Employees
 708 funded by the county under this section and other county
 709 employees may be aggregated for purposes of a flexible benefits
 710 plan pursuant to s. 125 of the Internal Revenue Code of 1986.
 711 The judicial circuit shall supervise the personnel whose
 712 employment is funded under the agreement; be responsible for
 713 compliance with all requirements of federal and state employment
 714 laws, including, but not limited to, Title VII of the Civil
 715 Rights Act of 1964, Title I of the Americans with Disabilities
 716 Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair
 717 Labor Standards Act, chapters 447 and 760, and ss. 112.3187,
 718 440.105, and 440.205; and fully indemnify the county from any
 719 liability under such laws, as authorized by s. 768.28(18) ~~s.~~
 720 ~~768.28(19)~~, to the extent such liability is the result of the
 721 acts or omissions of the judicial circuit or its agents or
 722 employees.

723 Section 4. Paragraph (b) of subsection (2) of section
 724 39.8297, Florida Statutes, is amended to read:

725 39.8297 County funding for guardian ad litem employees.—

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726 (2) The agreement, at a minimum, must provide that:
 727 (b) The persons who are employed will be hired,
 728 supervised, managed, and terminated by the executive director of
 729 the Statewide Guardian ad Litem Office. The statewide office is
 730 responsible for compliance with all requirements of federal and
 731 state employment laws, and shall fully indemnify the county from
 732 any liability under such laws, as authorized by s. 768.28(18) ~~s.~~
 733 ~~768.28(19)~~, to the extent such liability is the result of the
 734 acts or omissions of the Statewide Guardian ad Litem Office or
 735 its agents or employees.

736 Section 5. Paragraph (a) of subsection (3) of section
 737 343.811, Florida Statutes, is amended to read:

738 343.811 Power to assume indemnification and insurance
 739 obligations.—

740 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In
 741 conjunction with the development or operation of a commuter rail
 742 service on the Coastal Link corridor, an agency may:

743 (a) Assume obligations pursuant to the following:

744 1.a. The agency may assume the obligation by contract to
 745 protect, defend, indemnify, and hold harmless FECR and its
 746 officers, agents, and employees from and against:

747 (I) Any liability, cost, and expense, including, but not
 748 limited to, the agency's passengers and other rail corridor
 749 invitees in, on, or about the Coastal Link corridor, regardless
 750 of whether the loss, damage, destruction, injury, or death

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751 giving rise to any such liability, cost, or expense is caused in
 752 whole or in part, and to whatever nature or degree, by the
 753 fault, failure, negligence, misconduct, nonfeasance, or
 754 misfeasance of such freight rail operator, its successors, or
 755 its officers, agents, and employees, or any other person or
 756 persons whomsoever.

757 (II) Any loss, injury, or damage incurred by other rail
 758 corridor invitees up to the amount of the self-insurance
 759 retention amount with respect to limited covered accidents
 760 caused by the agency.

761 b. The agency may assume the obligation by contract to
 762 protect, defend, indemnify, and hold harmless Brightline and its
 763 officers, agents, and employees from and against:

764 (I) Any liability, cost, and expense, including, but not
 765 limited to, the agency's passengers and rail corridor invitees
 766 in the Coastal Link corridor, regardless of whether the loss,
 767 damage, destruction, injury, or death giving rise to any such
 768 liability, cost, or expense is caused in whole or in part, and
 769 to whatever nature or degree, by the fault, failure, negligence,
 770 misconduct, nonfeasance, or misfeasance of Brightline, its
 771 successors, or its officers, agents, and employees, or any other
 772 person or persons whomsoever.

773 (II) Any loss, injury, or damage incurred by other rail
 774 corridor invitees up to the amount of the self-insurance
 775 retention amount with respect to limited covered accidents

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776 | caused by the agency.

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

781 | a. The agency may be solely responsible for any loss,
782 | injury, or damage to the agency's passengers, or rail corridor
783 | invitees, third parties, or trespassers, regardless of
784 | circumstances or cause, subject to sub-subparagraph b. and
785 | subparagraphs 3., 4., and 5.

786 | b.(I) In the event of a limited covered accident caused by
787 | FECR, the authority of an agency to protect, defend, and
788 | indemnify FECR for all liability, cost, and expense, including
789 | punitive or exemplary damages, in excess of the self-insurance
790 | retention amount exists only if FECR agrees, with respect to
791 | such limited covered accident caused by FECR, to protect,
792 | defend, and indemnify the agency for the amount of the self-
793 | insurance retention amount.

794 | (II) In the event of a limited covered accident caused by
795 | Brightline, the authority of an agency to protect, defend, and
796 | indemnify Brightline for all liability, cost, and expense,
797 | including punitive or exemplary damages, in excess of the self-
798 | insurance retention amount exists only if Brightline agrees,
799 | with respect to such limited covered accident, to protect,
800 | defend, and indemnify the agency for the amount of the self-

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801 insurance retention amount.

802 3. When only one train is involved in an incident and:

803 a. The train is an agency's train, including an incident
804 with trespassers or at-grade crossings, the agency may be solely
805 responsible for any loss, injury, or damage.

806 b. The train is FECR's train, including an incident with
807 trespassers or at-grade crossings, FECR is solely responsible
808 for any loss, injury, or damage, except for the agency's
809 passengers and other rail corridor invitees, which are the
810 responsibility of the agency, and Brightline's passengers and
811 other rail corridor invitees, which are the responsibility of
812 Brightline.

813 c. The train is Brightline's train, including an incident
814 with trespassers or at-grade crossings, Brightline is solely
815 responsible for any loss, injury, or damage, except for the
816 agency's passengers or rail corridor invitees, which are the
817 responsibility of the agency, and FECR's rail corridor invitees,
818 which are the responsibility of FECR.

819 4. When an incident involves more than one operator, each
820 operator is responsible for:

821 a. Its property; passengers; employees, excluding
822 employees who are, at the time of the incident, rail corridor
823 invitees of another operator; and other rail corridor invitees.

824 b. Its proportionate share of any loss or damage to the
825 joint infrastructure.

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826 c. Its proportionate share of any loss, injury, or damage
827 to:

828 (I) Rail corridor invitees who are not rail corridor
829 invitees of operators, provided that the agency shall always be
830 responsible for its passengers and its rail corridor invitees
831 regardless of whether the agency was involved in the incident.

832 (II) Trespassers or third parties outside the Coastal Link
833 corridor as a result of the incident.

834 5. Any such contractual duty to protect, defend,
835 indemnify, and hold harmless FECR or Brightline with respect to
836 claims by rail passengers shall expressly include a specific cap
837 on the amount of the contractual duty, which amount may not
838 exceed \$323 million per occurrence and shall be adjusted so that
839 the per-occurrence insurance requirement is equal to the
840 aggregate allowable awards to all rail passengers, against all
841 defendants, for all claims, including claims for punitive
842 damages, arising from a single accident or incident in
843 accordance with 49 U.S.C. s. 28103, or any successor provision,
844 without prior legislative approval.

845 6. Notwithstanding any provision of this section to the
846 contrary, the liabilities of the agency to the state or any
847 other agency shall be as set forth in an agreement among such
848 entities and limited by s. 768.28(18) ~~s. 768.28(19)~~.

849

850 Neither the assumption by contract to protect, defend,

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851 indemnify, and hold harmless; the purchase of insurance; nor the
852 establishment of a self-insurance retention fund shall be deemed
853 to be a waiver of any defense of sovereign immunity for tort
854 claims or deemed to increase the limits of the agency's
855 liability for tort claims as provided in s. 768.28.

856 Section 6. Subsection (2) of section 944.713, Florida
857 Statutes, is amended to read:

858 944.713 Insurance against liability.—

859 (2) The contract shall provide for indemnification of the
860 state by the private vendor for any liabilities incurred up to
861 the limits provided under s. 768.28(5). The contract shall
862 provide that the private vendor, or the insurer of the private
863 vendor, is liable to pay any claim or judgment for any one
864 person which does not exceed the applicable maximum amount
865 provided in s. 768.28(5) ~~sum of \$100,000 or any claim or~~
866 ~~judgment, or portions thereof, which, when totaled with all~~
867 ~~other claims or judgments arising out of the same incident or~~
868 ~~occurrence, does not exceed the sum of \$200,000.~~ In addition,
869 the contractor must agree to defend, hold harmless, and
870 indemnify the department against any and all actions, claims,
871 damages and losses, including costs and attorney's fees.

872 Section 7. For the purpose of incorporating the amendment
873 made by this act to section 768.28, Florida Statutes, in a
874 reference thereto, subsection (5) of section 45.061, Florida
875 Statutes, is reenacted to read:

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876 45.061 Offers of settlement.—

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

882 Section 8. For the purpose of incorporating the amendment
 883 made by this act to section 768.28, Florida Statutes, in a
 884 reference thereto, paragraph (f) of subsection (6) of section
 885 95.11, Florida Statutes, is reenacted to read:

886 95.11 Limitations other than for the recovery of real
 887 property.—Actions other than for recovery of real property shall
 888 be commenced as follows:

889 (6) WITHIN ONE YEAR.—

890 (f) Except for actions described in subsection (9), or a
 891 petition challenging a criminal conviction, all petitions;
 892 extraordinary writs; tort actions, including those under s.
 893 768.28(14); or other actions which concern any condition of
 894 confinement of a prisoner filed by or on behalf of a prisoner as
 895 defined in s. 57.085. Any petition, writ, or action brought
 896 under this paragraph must be commenced within 1 year after the
 897 time the incident, conduct, or conditions occurred or within 1
 898 year after the time the incident, conduct, or conditions were
 899 discovered, or should have been discovered.

900 Section 9. For the purpose of incorporating the amendment

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901 made by this act to section 768.28, Florida Statutes, in a
 902 reference thereto, subsection (4) of section 110.504, Florida
 903 Statutes, is reenacted to read:

904 110.504 Volunteer benefits.—

905 (4) Volunteers shall be covered by state liability
 906 protection in accordance with the definition of a volunteer and
 907 the provisions of s. 768.28.

908 Section 10. For the purpose of incorporating the amendment
 909 made by this act to section 768.28, Florida Statutes, in a
 910 reference thereto, paragraph (a) of subsection (1) of section
 911 111.071, Florida Statutes, is reenacted to read:

912 111.071 Payment of judgments or settlements against
 913 certain public officers or employees.—

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

918 (a) Any final judgment, including damages, costs, and
 919 attorney's fees, arising from a complaint for damages or injury
 920 suffered as a result of any act or omission of action of any
 921 officer, employee, or agent in a civil or civil rights lawsuit
 922 described in s. 111.07. If the civil action arises under s.
 923 768.28 as a tort claim, the limitations and provisions of s.
 924 768.28 governing payment shall apply. If the action is a civil
 925 rights action arising under 42 U.S.C. s. 1983, or similar

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926 federal statutes, payments for the full amount of the judgment
 927 may be made unless the officer, employee, or agent has been
 928 determined in the final judgment to have caused the harm
 929 intentionally.

930 Section 11. For the purpose of incorporating the amendment
 931 made by this act to section 768.28, Florida Statutes, in a
 932 reference thereto, paragraph (b) of subsection (2) of section
 933 125.01015, Florida Statutes, is reenacted to read:

934 125.01015 Office of the sheriff.—

935 (2) To ensure the successful transfer of the exclusive
 936 policing responsibility and authority to the sheriff in a
 937 county, as defined in s. 125.011(1), the board of county
 938 commissioners shall:

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

940 1. Provide funding for all of the necessary staff and
 941 office space for the sheriff-elect to establish an independent
 942 office of the sheriff, so that the office may effectively
 943 operate and perform all of the functions required by general law
 944 when the sheriff-elect takes office.

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

950 3. Provide funding for the sheriff-elect to establish bank

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951 and other accounts, as necessary, in his or her official
952 capacity as sheriff, so that such accounts become operational
953 when he or she takes office.

954 4. Unless otherwise transferable based on existing surety
955 bonds for the sheriff's deputies, provide funding for and
956 facilitate procurement of the required surety bonds for deputy
957 sheriffs pursuant to s. 30.09, so that such bonds are in place
958 when the sheriff-elect takes office.

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

961 6. Notwithstanding any provision to the contrary, for a
962 term commencing on January 7, 2025, and ending on or after
963 September 30, 2028, provide the sheriff-elect taking office
964 with, and require the sheriff-elect taking office to use, not
965 less than the substantially and materially same support
966 services, facilities, office space, and information technology
967 infrastructure provided to county offices or departments
968 performing the duties to be performed by the sheriff-elect upon
969 taking office in the 1-year period before he or she takes
970 office.

971 a. As used in this subparagraph, the term "support
972 services" includes:

973 (I) Property and facilities, and the management and
974 maintenance for such property and facilities.

975 (II) Communications infrastructure, including telephone

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976 | and Internet connectivity.

977 | (III) Risk management, including processing, adjusting,
978 | and payment of all claims and demands, including those made
979 | under s. 768.28. The county shall provide the sheriff with all
980 | required general liability, property, and other insurance
981 | coverage through its self-insurance program, a self-insurance
982 | risk pool, or commercial insurance. If the county provides
983 | insurance through a self-insurance program, the county must also
984 | provide the sheriff with commercial stop-loss coverage in an
985 | amount and with a self-insured retention agreed upon by the
986 | sheriff and the county.

987 | (IV) Legal representation and advice through the office of
988 | the county attorney for all claims, demands, and causes of
989 | action brought against the sheriff, his or her deputies, or
990 | other personnel in their official and individual capacities,
991 | while acting in their official and individual capacities,
992 | including any required outside counsel due to conflicts of
993 | interest. This sub-sub-subparagraph does not prohibit the
994 | sheriff from employing or retaining his or her own legal
995 | representation as he or she deems necessary.

996 | (V) Purchasing and procurement services using procedures
997 | under the laws and ordinances applicable to the county for
998 | purchases requiring competitive procurement.

999 | (VI) Budget and fiscal software and budget development
1000 | services.

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1001 (VII) Human resource services, including, but not limited
1002 to, facilitation of the hiring process, including employee
1003 applicant screening and employee applicant background checks,
1004 and employee benefit administration. The county may provide
1005 human resource services to the sheriff. However, the sheriff is
1006 the employer of his or her employees, and the sheriff retains
1007 full and complete control and authority over the hiring of his
1008 or her employees and the terms and conditions of employment,
1009 including employee discipline and termination of employment. The
1010 provision of human resource services by the county to the
1011 sheriff does not create a joint-employer relationship. The
1012 sheriff's employees shall remain members of the county's health
1013 insurance and workers' compensation plans for at least the term
1014 set forth in this subparagraph.

1015 (VIII) Fleet management, including procurement of all
1016 vehicles and other mobile assets such as boats and aircraft, and
1017 all vehicle repair and maintenance.

1018 b. As used in this subparagraph, the term "information
1019 technology infrastructure" includes:

1020 (I) All hardware, including computers.

1021 (II) Budget and fiscal software, including payroll and
1022 purchasing software.

1023 (III) Computer-aided dispatch.

1024 c. Under a cost allocation plan agreed to by the county
1025 and the sheriff, the sheriff shall pay the county for such

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1026 support services and information technology infrastructure from
1027 his or her general fund budget, except for any support services
1028 and information technology infrastructure costs that general law
1029 otherwise and expressly requires the county to fund outside the
1030 sheriff's budget.

1031 d. To satisfy compliance with this subsection and to
1032 establish the office of the sheriff in a manner that minimizes
1033 unnecessary financial expenditures, the county and the sheriff
1034 shall execute an interlocal agreement addressing the
1035 requirements of this subsection and other expenditures,
1036 including an appropriate phase-in period for identification of
1037 the sheriff's assets with the sheriff's markings to minimize the
1038 cost to taxpayers. The interlocal agreement shall have a term
1039 that ends no earlier than September 30, 2028, and may be
1040 amended, renewed, extended, or newly adopted at any time
1041 following the expiration or termination of the agreement. After
1042 the initial period ending no earlier than September 30, 2028, an
1043 interlocal agreement may be entered into between the county and
1044 the sheriff which provides for the same or different
1045 requirements as set forth in this subsection.

1046 Section 12. For the purpose of incorporating the amendment
1047 made by this act to section 768.28, Florida Statutes, in
1048 references thereto, paragraph (h) of subsection (3) and
1049 paragraph (k) of subsection (15) of section 163.01, Florida
1050 Statutes, are reenacted to read:

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1051 | 163.01 Florida Interlocal Cooperation Act of 1969.—
 1052 | (3) As used in this section:
 1053 | (h) "Local government liability pool" means a reciprocal
 1054 | insurer as defined in s. 629.011 or any self-insurance program
 1055 | created pursuant to s. 768.28(16), formed and controlled by
 1056 | counties or municipalities of this state to provide liability
 1057 | insurance coverage for counties, municipalities, or other public
 1058 | agencies of this state, which pool may contract with other
 1059 | parties for the purpose of providing claims administration,
 1060 | processing, accounting, and other administrative facilities.
 1061 | (15) Notwithstanding any other provision of this section
 1062 | or of any other law except s. 361.14, any public agency of this
 1063 | state which is an electric utility, or any separate legal entity
 1064 | created pursuant to the provisions of this section, the
 1065 | membership of which consists only of electric utilities, and
 1066 | which exercises or proposes to exercise the powers granted by
 1067 | part II of chapter 361, the Joint Power Act, may exercise any or
 1068 | all of the following powers:
 1069 | (k) The limitations on waiver in the provisions of s.
 1070 | 768.28 or any other law to the contrary notwithstanding, the
 1071 | Legislature, in accordance with s. 13, Art. X of the State
 1072 | Constitution, hereby declares that any such legal entity or any
 1073 | public agency of this state that participates in any electric
 1074 | project waives its sovereign immunity to:
 1075 | 1. All other persons participating therein; and

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1076 2. Any person in any manner contracting with a legal
1077 entity of which any such public agency is a member, with
1078 relation to:

1079 a. Ownership, operation, or any other activity set forth
1080 in sub-subparagraph (b)2.d. with relation to any electric
1081 project; or

1082 b. The supplying or purchasing of services, output,
1083 capacity, energy, or any combination thereof.

1084 Section 13. For the purpose of incorporating the amendment
1085 made by this act to section 768.28, Florida Statutes, in a
1086 reference thereto, section 190.043, Florida Statutes, is
1087 reenacted to read:

1088 190.043 Suits against the district.—Any suit or action
1089 brought or maintained against the district for damages arising
1090 out of tort, including, without limitation, any claim arising
1091 upon account of an act causing an injury or loss of property,
1092 personal injury, or death, shall be subject to the limitations
1093 provided in s. 768.28.

1094 Section 14. For the purpose of incorporating the amendment
1095 made by this act to section 768.28, Florida Statutes, in a
1096 reference thereto, subsection (13) of section 213.015, Florida
1097 Statutes, is reenacted to read:

1098 213.015 Taxpayer rights.—There is created a Florida
1099 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
1100 and property of Florida taxpayers are adequately safeguarded and

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1101 | protected during tax assessment, collection, and enforcement
 1102 | processes administered under the revenue laws of this state. The
 1103 | Taxpayer's Bill of Rights compiles, in one document, brief but
 1104 | comprehensive statements which explain, in simple, nontechnical
 1105 | terms, the rights and obligations of the Department of Revenue
 1106 | and taxpayers. Section 192.0105 provides additional rights
 1107 | afforded to payors of property taxes and assessments. The rights
 1108 | afforded taxpayers to ensure that their privacy and property are
 1109 | safeguarded and protected during tax assessment and collection
 1110 | are available only insofar as they are implemented in other
 1111 | parts of the Florida Statutes or rules of the Department of
 1112 | Revenue. The rights so guaranteed Florida taxpayers in the
 1113 | Florida Statutes and the departmental rules are:

1114 | (13) The right to an action at law within the limitations
 1115 | of s. 768.28, relating to sovereign immunity, to recover damages
 1116 | against the state or the Department of Revenue for injury caused
 1117 | by the wrongful or negligent act or omission of a department
 1118 | officer or employee (see s. 768.28).

1119 | Section 15. For the purpose of incorporating the amendment
 1120 | made by this act to section 768.28, Florida Statutes, in a
 1121 | reference thereto, section 252.51, Florida Statutes, is
 1122 | reenacted to read:

1123 | 252.51 Liability.—Any person or organization, public or
 1124 | private, owning or controlling real estate or other premises who
 1125 | voluntarily and without compensation, other than payment or

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1126 reimbursement of costs and expenses, grants a license or
 1127 privilege or otherwise permits the designation by the local
 1128 emergency management agency or use of the whole or any part of
 1129 such real estate or premises for the purpose of sheltering
 1130 persons during an actual, impending, mock, or practice
 1131 emergency, together with her or his successor in interest, if
 1132 any, shall not be liable for the death of, or injury to, any
 1133 person on or about such real estate or premises during the
 1134 actual, impending, mock, or practice emergency, or for loss of,
 1135 or damage to, the property of such person, solely by reason or
 1136 as a result of such license, privilege, designation, or use,
 1137 unless the gross negligence or the willful and wanton misconduct
 1138 of such person owning or controlling such real estate or
 1139 premises or her or his successor in interest is the proximate
 1140 cause of such death, injury, loss, or damage occurring during
 1141 such sheltering period. Any such person or organization who
 1142 provides such shelter space for compensation shall be deemed to
 1143 be an instrumentality of the state or its applicable agency or
 1144 subdivision for the purposes of s. 768.28.

1145 Section 16. For the purpose of incorporating the amendment
 1146 made by this act to section 768.28, Florida Statutes, in a
 1147 reference thereto, section 252.89, Florida Statutes, is
 1148 reenacted to read:

1149 252.89 Tort liability.—The commission and the committees
 1150 shall be state agencies, and the members of the commission and

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1151 committees shall be officers, employees, or agents of the state
 1152 for the purposes of s. 768.28.

1153 Section 17. For the purpose of incorporating the amendment
 1154 made by this act to section 768.28, Florida Statutes, in a
 1155 reference thereto, section 252.944, Florida Statutes, is
 1156 reenacted to read:

1157 252.944 Tort liability.—The commission and the committees
 1158 are state agencies, and the members of the commission and
 1159 committees are officers, employees, or agents of the state for
 1160 the purpose of s. 768.28.

1161 Section 18. For the purpose of incorporating the amendment
 1162 made by this act to section 768.28, Florida Statutes, in a
 1163 reference thereto, subsection (2) of section 260.0125, Florida
 1164 Statutes, is reenacted to read:

1165 260.0125 Limitation on liability of private landowners
 1166 whose property is designated as part of the statewide system of
 1167 greenways and trails.—

1168 (2) Any private landowner who consents to designation of
 1169 his or her land as part of the statewide system of greenways and
 1170 trails pursuant to s. 260.016(2)(d) without compensation shall
 1171 be considered a volunteer, as defined in s. 110.501, and shall
 1172 be covered by state liability protection pursuant to s. 768.28,
 1173 including s. 768.28(9).

1174 Section 19. For the purpose of incorporating the amendment
 1175 made by this act to section 768.28, Florida Statutes, in a

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1176 reference thereto, section 284.31, Florida Statutes, is
 1177 reenacted to read:
 1178 284.31 Scope and types of coverages; separate accounts.—
 1179 The Insurance Risk Management Trust Fund must, unless
 1180 specifically excluded by the Department of Financial Services,
 1181 cover all departments of the State of Florida and their
 1182 employees, agents, and volunteers and must provide separate
 1183 accounts for workers' compensation, general liability, fleet
 1184 automotive liability, federal civil rights actions under 42
 1185 U.S.C. s. 1983 or similar federal statutes, state agency
 1186 firefighter cancer benefits payable under s. 112.1816(2), and
 1187 court-awarded attorney fees in other proceedings against the
 1188 state except for such awards in eminent domain or for inverse
 1189 condemnation or for awards by the Public Employees Relations
 1190 Commission. Unless specifically excluded by the Department of
 1191 Financial Services, the Insurance Risk Management Trust Fund
 1192 must provide fleet automotive liability coverage to motor
 1193 vehicles titled to the state, or to any department of the state,
 1194 when such motor vehicles are used by community transportation
 1195 coordinators performing, under contract to the appropriate
 1196 department of the state, services for the transportation
 1197 disadvantaged under part I of chapter 427. Such fleet automotive
 1198 liability coverage is primary and is subject to s. 768.28 and
 1199 parts II and III of chapter 284, and applicable rules adopted
 1200 thereunder, and the terms and conditions of the certificate of

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1201 coverage issued by the Department of Financial Services.

1202 Section 20. For the purpose of incorporating the amendment
 1203 made by this act to section 768.28, Florida Statutes, in
 1204 references thereto, section 284.38, Florida Statutes, is
 1205 reenacted to read:

1206 284.38 Waiver of sovereign immunity; effect.—The insurance
 1207 programs developed herein shall provide limits as established by
 1208 the provisions of s. 768.28 if a tort claim. The limits provided
 1209 in s. 768.28 shall not apply to a civil rights action arising
 1210 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a
 1211 pending or future claim or judgment arising under any of said
 1212 statutes may be made upon this act becoming a law, unless the
 1213 officer, employee, or agent has been determined in the final
 1214 judgment to have caused the harm intentionally; however, the
 1215 fund is authorized to pay all other court-ordered attorney's
 1216 fees as provided under s. 284.31.

1217 Section 21. For the purpose of incorporating the amendment
 1218 made by this act to section 768.28, Florida Statutes, in a
 1219 reference thereto, paragraph (b) of subsection (1) of section
 1220 322.13, Florida Statutes, is reenacted to read:

1221 322.13 Driver license examiners.—

1222 (1)

1223 (b) Those persons serving as driver license examiners are
 1224 not liable for actions taken within the scope of their
 1225 employment or designation, except as provided by s. 768.28.

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1226 Section 22. For the purpose of incorporating the amendment
 1227 made by this act to section 768.28, Florida Statutes, in a
 1228 reference thereto, subsection (1) of section 337.19, Florida
 1229 Statutes, is reenacted to read:

1230 337.19 Suits by and against department; limitation of
 1231 actions; forum.—

1232 (1) Suits at law and in equity may be brought and
 1233 maintained by and against the department on any contract claim
 1234 arising from breach of an express provision or an implied
 1235 covenant of a written agreement or a written directive issued by
 1236 the department pursuant to the written agreement. In any such
 1237 suit, the department and the contractor shall have all of the
 1238 same rights and obligations as a private person under a like
 1239 contract except that no liability may be based on an oral
 1240 modification of either the written contract or written
 1241 directive. Nothing herein shall be construed to waive the
 1242 sovereign immunity of the state and its political subdivisions
 1243 from equitable claims and equitable remedies. Notwithstanding
 1244 anything to the contrary contained in this section, no employee
 1245 or agent of the department may be held personally liable to an
 1246 extent greater than that pursuant to s. 768.28 provided that no
 1247 suit sounding in tort shall be maintained against the
 1248 department.

1249 Section 23. For the purpose of incorporating the amendment
 1250 made by this act to section 768.28, Florida Statutes, in a

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1251 reference thereto, subsection (17) of section 341.302, Florida
 1252 Statutes, is reenacted to read:

1253 341.302 Rail program; duties and responsibilities of the
 1254 department.—The department, in conjunction with other
 1255 governmental entities, including the rail enterprise and the
 1256 private sector, shall develop and implement a rail program of
 1257 statewide application designed to ensure the proper maintenance,
 1258 safety, revitalization, and expansion of the rail system to
 1259 assure its continued and increased availability to respond to
 1260 statewide mobility needs. Within the resources provided pursuant
 1261 to chapter 216, and as authorized under federal law, the
 1262 department shall:

1263 (17) In conjunction with the acquisition, ownership,
 1264 construction, operation, maintenance, and management of a rail
 1265 corridor, have the authority to:

1266 (a) Assume obligations pursuant to the following:

1267 1.a. The department may assume the obligation by contract
 1268 to forever protect, defend, indemnify, and hold harmless the
 1269 freight rail operator, or its successors, from whom the
 1270 department has acquired a real property interest in the rail
 1271 corridor, and that freight rail operator's officers, agents, and
 1272 employees, from and against any liability, cost, and expense,
 1273 including, but not limited to, commuter rail passengers and rail
 1274 corridor invitees in the rail corridor, regardless of whether
 1275 the loss, damage, destruction, injury, or death giving rise to

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1276 any such liability, cost, or expense is caused in whole or in
 1277 part, and to whatever nature or degree, by the fault, failure,
 1278 negligence, misconduct, nonfeasance, or misfeasance of such
 1279 freight rail operator, its successors, or its officers, agents,
 1280 and employees, or any other person or persons whomsoever; or
 1281 b. The department may assume the obligation by contract to
 1282 forever protect, defend, indemnify, and hold harmless National
 1283 Railroad Passenger Corporation, or its successors, and officers,
 1284 agents, and employees of National Railroad Passenger
 1285 Corporation, from and against any liability, cost, and expense,
 1286 including, but not limited to, commuter rail passengers and rail
 1287 corridor invitees in the rail corridor, regardless of whether
 1288 the loss, damage, destruction, injury, or death giving rise to
 1289 any such liability, cost, or expense is caused in whole or in
 1290 part, and to whatever nature or degree, by the fault, failure,
 1291 negligence, misconduct, nonfeasance, or misfeasance of National
 1292 Railroad Passenger Corporation, its successors, or its officers,
 1293 agents, and employees, or any other person or persons
 1294 whomsoever.
 1295 2. The assumption of liability of the department by
 1296 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph
 1297 1.b. may not in any instance exceed the following parameters of
 1298 allocation of risk:
 1299 a. The department may be solely responsible for any loss,
 1300 injury, or damage to commuter rail passengers, or rail corridor

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1301 invitees, or trespassers, regardless of circumstances or cause,
 1302 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
 1303 6.

1304 b.(I) In the event of a limited covered accident, the
 1305 authority of the department to protect, defend, and indemnify
 1306 the freight operator for all liability, cost, and expense,
 1307 including punitive or exemplary damages, in excess of the
 1308 deductible or self-insurance retention fund established under
 1309 paragraph (b) and actually in force at the time of the limited
 1310 covered accident exists only if the freight operator agrees,
 1311 with respect to the limited covered accident, to protect,
 1312 defend, and indemnify the department for the amount of the
 1313 deductible or self-insurance retention fund established under
 1314 paragraph (b) and actually in force at the time of the limited
 1315 covered accident.

1316 (II) In the event of a limited covered accident, the
 1317 authority of the department to protect, defend, and indemnify
 1318 National Railroad Passenger Corporation for all liability, cost,
 1319 and expense, including punitive or exemplary damages, in excess
 1320 of the deductible or self-insurance retention fund established
 1321 under paragraph (b) and actually in force at the time of the
 1322 limited covered accident exists only if National Railroad
 1323 Passenger Corporation agrees, with respect to the limited
 1324 covered accident, to protect, defend, and indemnify the
 1325 department for the amount of the deductible or self-insurance

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1326 retention fund established under paragraph (b) and actually in
 1327 force at the time of the limited covered accident.

1328 3. When only one train is involved in an incident, the
 1329 department may be solely responsible for any loss, injury, or
 1330 damage if the train is a department train or other train
 1331 pursuant to subparagraph 4., but only if:

1332 a. When an incident occurs with only a freight train
 1333 involved, including incidents with trespassers or at grade
 1334 crossings, the freight rail operator is solely responsible for
 1335 any loss, injury, or damage, except for commuter rail passengers
 1336 and rail corridor invitees; or

1337 b. When an incident occurs with only a National Railroad
 1338 Passenger Corporation train involved, including incidents with
 1339 trespassers or at grade crossings, National Railroad Passenger
 1340 Corporation is solely responsible for any loss, injury, or
 1341 damage, except for commuter rail passengers and rail corridor
 1342 invitees.

1343 4. For the purposes of this subsection:

1344 a. Any train involved in an incident that is neither the
 1345 department's train nor the freight rail operator's train,
 1346 hereinafter referred to in this subsection as an "other train,"
 1347 may be treated as a department train, solely for purposes of any
 1348 allocation of liability between the department and the freight
 1349 rail operator only, but only if the department and the freight
 1350 rail operator share responsibility equally as to third parties

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1351 outside the rail corridor who incur loss, injury, or damage as a
 1352 result of any incident involving both a department train and a
 1353 freight rail operator train, and the allocation as between the
 1354 department and the freight rail operator, regardless of whether
 1355 the other train is treated as a department train, shall remain
 1356 one-half each as to third parties outside the rail corridor who
 1357 incur loss, injury, or damage as a result of the incident. The
 1358 involvement of any other train shall not alter the sharing of
 1359 equal responsibility as to third parties outside the rail
 1360 corridor who incur loss, injury, or damage as a result of the
 1361 incident; or

1362 b. Any train involved in an incident that is neither the
 1363 department's train nor the National Railroad Passenger
 1364 Corporation's train, hereinafter referred to in this subsection
 1365 as an "other train," may be treated as a department train,
 1366 solely for purposes of any allocation of liability between the
 1367 department and National Railroad Passenger Corporation only, but
 1368 only if the department and National Railroad Passenger
 1369 Corporation share responsibility equally as to third parties
 1370 outside the rail corridor who incur loss, injury, or damage as a
 1371 result of any incident involving both a department train and a
 1372 National Railroad Passenger Corporation train, and the
 1373 allocation as between the department and National Railroad
 1374 Passenger Corporation, regardless of whether the other train is
 1375 treated as a department train, shall remain one-half each as to

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1376 | third parties outside the rail corridor who incur loss, injury,
 1377 | or damage as a result of the incident. The involvement of any
 1378 | other train shall not alter the sharing of equal responsibility
 1379 | as to third parties outside the rail corridor who incur loss,
 1380 | injury, or damage as a result of the incident.

1381 | 5. When more than one train is involved in an incident:

1382 | a.(I) If only a department train and freight rail
 1383 | operator's train, or only an other train as described in sub-
 1384 | subparagraph 4.a. and a freight rail operator's train, are
 1385 | involved in an incident, the department may be responsible for
 1386 | its property and all of its people, all commuter rail
 1387 | passengers, and rail corridor invitees, but only if the freight
 1388 | rail operator is responsible for its property and all of its
 1389 | people, and the department and the freight rail operator each
 1390 | share one-half responsibility as to trespassers or third parties
 1391 | outside the rail corridor who incur loss, injury, or damage as a
 1392 | result of the incident; or

1393 | (II) If only a department train and a National Railroad
 1394 | Passenger Corporation train, or only an other train as described
 1395 | in sub-subparagraph 4.b. and a National Railroad Passenger
 1396 | Corporation train, are involved in an incident, the department
 1397 | may be responsible for its property and all of its people, all
 1398 | commuter rail passengers, and rail corridor invitees, but only
 1399 | if National Railroad Passenger Corporation is responsible for
 1400 | its property and all of its people, all National Railroad

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1401 Passenger Corporation's rail passengers, and the department and
1402 National Railroad Passenger Corporation each share one-half
1403 responsibility as to trespassers or third parties outside the
1404 rail corridor who incur loss, injury, or damage as a result of
1405 the incident.

1406 b.(I) If a department train, a freight rail operator
1407 train, and any other train are involved in an incident, the
1408 allocation of liability between the department and the freight
1409 rail operator, regardless of whether the other train is treated
1410 as a department train, shall remain one-half each as to third
1411 parties outside the rail corridor who incur loss, injury, or
1412 damage as a result of the incident; the involvement of any other
1413 train shall not alter the sharing of equal responsibility as to
1414 third parties outside the rail corridor who incur loss, injury,
1415 or damage as a result of the incident; and, if the owner,
1416 operator, or insurer of the other train makes any payment to
1417 injured third parties outside the rail corridor who incur loss,
1418 injury, or damage as a result of the incident, the allocation of
1419 credit between the department and the freight rail operator as
1420 to such payment shall not in any case reduce the freight rail
1421 operator's third-party-sharing allocation of one-half under this
1422 paragraph to less than one-third of the total third party
1423 liability; or

1424 (II) If a department train, a National Railroad Passenger
1425 Corporation train, and any other train are involved in an

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1426 | incident, the allocation of liability between the department and
1427 | National Railroad Passenger Corporation, regardless of whether
1428 | the other train is treated as a department train, shall remain
1429 | one-half each as to third parties outside the rail corridor who
1430 | incur loss, injury, or damage as a result of the incident; the
1431 | involvement of any other train shall not alter the sharing of
1432 | equal responsibility as to third parties outside the rail
1433 | corridor who incur loss, injury, or damage as a result of the
1434 | incident; and, if the owner, operator, or insurer of the other
1435 | train makes any payment to injured third parties outside the
1436 | rail corridor who incur loss, injury, or damage as a result of
1437 | the incident, the allocation of credit between the department
1438 | and National Railroad Passenger Corporation as to such payment
1439 | shall not in any case reduce National Railroad Passenger
1440 | Corporation's third-party-sharing allocation of one-half under
1441 | this sub-subparagraph to less than one-third of the total third
1442 | party liability.

1443 | 6. Any such contractual duty to protect, defend,
1444 | indemnify, and hold harmless such a freight rail operator or
1445 | National Railroad Passenger Corporation shall expressly include
1446 | a specific cap on the amount of the contractual duty, which
1447 | amount shall not exceed \$200 million without prior legislative
1448 | approval, and the department to purchase liability insurance and
1449 | establish a self-insurance retention fund in the amount of the
1450 | specific cap established under this subparagraph, provided that:

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1451 a. No such contractual duty shall in any case be effective
 1452 nor otherwise extend the department's liability in scope and
 1453 effect beyond the contractual liability insurance and self-
 1454 insurance retention fund required pursuant to this paragraph;
 1455 and

1456 b.(I) The freight rail operator's compensation to the
 1457 department for future use of the department's rail corridor
 1458 shall include a monetary contribution to the cost of such
 1459 liability coverage for the sole benefit of the freight rail
 1460 operator.

1461 (II) National Railroad Passenger Corporation's
 1462 compensation to the department for future use of the
 1463 department's rail corridor shall include a monetary contribution
 1464 to the cost of such liability coverage for the sole benefit of
 1465 National Railroad Passenger Corporation.

1466 (b) Purchase liability insurance, which amount shall not
 1467 exceed \$200 million, and establish a self-insurance retention
 1468 fund for the purpose of paying the deductible limit established
 1469 in the insurance policies it may obtain, including coverage for
 1470 the department, any freight rail operator as described in
 1471 paragraph (a), National Railroad Passenger Corporation, commuter
 1472 rail service providers, governmental entities, or any ancillary
 1473 development, which self-insurance retention fund or deductible
 1474 shall not exceed \$10 million. The insureds shall pay a
 1475 reasonable monetary contribution to the cost of such liability

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1476 coverage for the sole benefit of the insured. Such insurance and
 1477 self-insurance retention fund may provide coverage for all
 1478 damages, including, but not limited to, compensatory, special,
 1479 and exemplary, and be maintained to provide an adequate fund to
 1480 cover claims and liabilities for loss, injury, or damage arising
 1481 out of or connected with the ownership, operation, maintenance,
 1482 and management of a rail corridor.

1483 (c) Incur expenses for the purchase of advertisements,
 1484 marketing, and promotional items.

1485 (d) Without altering any of the rights granted to the
 1486 department under this section, agree to assume the obligations
 1487 to indemnify and insure, pursuant to s. 343.545, freight rail
 1488 service, intercity passenger rail service, and commuter rail
 1489 service on a department-owned rail corridor, whether ownership
 1490 is in fee or by easement, or on a rail corridor where the
 1491 department has the right to operate.

1492
 1493 Neither the assumption by contract to protect, defend,
 1494 indemnify, and hold harmless; the purchase of insurance; nor the
 1495 establishment of a self-insurance retention fund shall be deemed
 1496 to be a waiver of any defense of sovereign immunity for torts
 1497 nor deemed to increase the limits of the department's or the
 1498 governmental entity's liability for torts as provided in s.
 1499 768.28. The requirements of s. 287.022(1) shall not apply to the
 1500 purchase of any insurance under this subsection. The provisions

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1501 of this subsection shall apply and inure fully as to any other
 1502 governmental entity providing commuter rail service and
 1503 constructing, operating, maintaining, or managing a rail
 1504 corridor on publicly owned right-of-way under contract by the
 1505 governmental entity with the department or a governmental entity
 1506 designated by the department. Notwithstanding any law to the
 1507 contrary, procurement for the construction, operation,
 1508 maintenance, and management of any rail corridor described in
 1509 this subsection, whether by the department, a governmental
 1510 entity under contract with the department, or a governmental
 1511 entity designated by the department, shall be pursuant to s.
 1512 287.057 and shall include, but not be limited to, criteria for
 1513 the consideration of qualifications, technical aspects of the
 1514 proposal, and price. Further, any such contract for design-build
 1515 shall be procured pursuant to the criteria in s. 337.11(7).

1516 Section 24. For the purpose of incorporating the amendment
 1517 made by this act to section 768.28, Florida Statutes, in a
 1518 reference thereto, subsection (3) of section 343.811, Florida
 1519 Statutes, is reenacted to read:

1520 343.811 Power to assume indemnification and insurance
 1521 obligations.—

1522 (3) ASSUMPTION OF OBLIGATIONS; PURCHASE OF INSURANCE.—In
 1523 conjunction with the development or operation of a commuter rail
 1524 service on the Coastal Link corridor, an agency may:

1525 (a) Assume obligations pursuant to the following:

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1526 1.a. The agency may assume the obligation by contract to
 1527 protect, defend, indemnify, and hold harmless FECR and its
 1528 officers, agents, and employees from and against:

1529 (I) Any liability, cost, and expense, including, but not
 1530 limited to, the agency's passengers and other rail corridor
 1531 invitees in, on, or about the Coastal Link corridor, regardless
 1532 of whether the loss, damage, destruction, injury, or death
 1533 giving rise to any such liability, cost, or expense is caused in
 1534 whole or in part, and to whatever nature or degree, by the
 1535 fault, failure, negligence, misconduct, nonfeasance, or
 1536 misfeasance of such freight rail operator, its successors, or
 1537 its officers, agents, and employees, or any other person or
 1538 persons whomsoever.

1539 (II) Any loss, injury, or damage incurred by other rail
 1540 corridor invitees up to the amount of the self-insurance
 1541 retention amount with respect to limited covered accidents
 1542 caused by the agency.

1543 b. The agency may assume the obligation by contract to
 1544 protect, defend, indemnify, and hold harmless Brightline and its
 1545 officers, agents, and employees from and against:

1546 (I) Any liability, cost, and expense, including, but not
 1547 limited to, the agency's passengers and rail corridor invitees
 1548 in the Coastal Link corridor, regardless of whether the loss,
 1549 damage, destruction, injury, or death giving rise to any such
 1550 liability, cost, or expense is caused in whole or in part, and

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1551 to whatever nature or degree, by the fault, failure, negligence,
 1552 misconduct, nonfeasance, or misfeasance of Brightline, its
 1553 successors, or its officers, agents, and employees, or any other
 1554 person or persons whomsoever.

1555 (II) Any loss, injury, or damage incurred by other rail
 1556 corridor invitees up to the amount of the self-insurance
 1557 retention amount with respect to limited covered accidents
 1558 caused by the agency.

1559 2. The assumption of liability of the agency by contract
 1560 pursuant to sub-subparagraph 1.a. or sub-subparagraph 1.b. may
 1561 not in any instance exceed the following parameters of
 1562 allocation of risk:

1563 a. The agency may be solely responsible for any loss,
 1564 injury, or damage to the agency's passengers, or rail corridor
 1565 invitees, third parties, or trespassers, regardless of
 1566 circumstances or cause, subject to sub-subparagraph b. and
 1567 subparagraphs 3., 4., and 5.

1568 b.(I) In the event of a limited covered accident caused by
 1569 FECR, the authority of an agency to protect, defend, and
 1570 indemnify FECR for all liability, cost, and expense, including
 1571 punitive or exemplary damages, in excess of the self-insurance
 1572 retention amount exists only if FECR agrees, with respect to
 1573 such limited covered accident caused by FECR, to protect,
 1574 defend, and indemnify the agency for the amount of the self-
 1575 insurance retention amount.

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1576 (II) In the event of a limited covered accident caused by
 1577 Brightline, the authority of an agency to protect, defend, and
 1578 indemnify Brightline for all liability, cost, and expense,
 1579 including punitive or exemplary damages, in excess of the self-
 1580 insurance retention amount exists only if Brightline agrees,
 1581 with respect to such limited covered accident, to protect,
 1582 defend, and indemnify the agency for the amount of the self-
 1583 insurance retention amount.

1584 3. When only one train is involved in an incident and:

1585 a. The train is an agency's train, including an incident
 1586 with trespassers or at-grade crossings, the agency may be solely
 1587 responsible for any loss, injury, or damage.

1588 b. The train is FECR's train, including an incident with
 1589 trespassers or at-grade crossings, FECR is solely responsible
 1590 for any loss, injury, or damage, except for the agency's
 1591 passengers and other rail corridor invitees, which are the
 1592 responsibility of the agency, and Brightline's passengers and
 1593 other rail corridor invitees, which are the responsibility of
 1594 Brightline.

1595 c. The train is Brightline's train, including an incident
 1596 with trespassers or at-grade crossings, Brightline is solely
 1597 responsible for any loss, injury, or damage, except for the
 1598 agency's passengers or rail corridor invitees, which are the
 1599 responsibility of the agency, and FECR's rail corridor invitees,
 1600 which are the responsibility of FECR.

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1601 4. When an incident involves more than one operator, each
 1602 operator is responsible for:

1603 a. Its property; passengers; employees, excluding
 1604 employees who are, at the time of the incident, rail corridor
 1605 invitees of another operator; and other rail corridor invitees.

1606 b. Its proportionate share of any loss or damage to the
 1607 joint infrastructure.

1608 c. Its proportionate share of any loss, injury, or damage
 1609 to:

1610 (I) Rail corridor invitees who are not rail corridor
 1611 invitees of operators, provided that the agency shall always be
 1612 responsible for its passengers and its rail corridor invitees
 1613 regardless of whether the agency was involved in the incident.

1614 (II) Trespassers or third parties outside the Coastal Link
 1615 corridor as a result of the incident.

1616 5. Any such contractual duty to protect, defend,
 1617 indemnify, and hold harmless FECR or Brightline with respect to
 1618 claims by rail passengers shall expressly include a specific cap
 1619 on the amount of the contractual duty, which amount may not
 1620 exceed \$323 million per occurrence and shall be adjusted so that
 1621 the per-occurrence insurance requirement is equal to the
 1622 aggregate allowable awards to all rail passengers, against all
 1623 defendants, for all claims, including claims for punitive
 1624 damages, arising from a single accident or incident in
 1625 accordance with 49 U.S.C. s. 28103, or any successor provision,

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1626 without prior legislative approval.

1627 6. Notwithstanding any provision of this section to the
 1628 contrary, the liabilities of the agency to the state or any
 1629 other agency shall be as set forth in an agreement among such
 1630 entities and limited by s. 768.28(19).

1631 (b) Purchase liability insurance, which amount may not
 1632 exceed \$323 million per occurrence, which amount shall be
 1633 adjusted so that the per-occurrence insurance requirement is
 1634 equal to the aggregate allowable awards to all rail passengers,
 1635 against all defendants, for all claims, including claims for
 1636 punitive damages, arising from a single accident or incident in
 1637 accordance with 49 U.S.C. s. 28103, or any successor provision,
 1638 and establish a self-insurance retention fund for the purpose of
 1639 paying the deductible limit established in the insurance
 1640 policies it may obtain, including coverage for a county agency,
 1641 any freight rail operator as described in paragraph (a),
 1642 Brightline, commuter rail service providers, governmental
 1643 entities, or any ancillary development, which self-insurance
 1644 retention fund or deductible shall not exceed the self-insurance
 1645 retention amount.

1646 1. Such insurance and self-insurance retention fund may
 1647 provide coverage for all damages, including, but not limited to,
 1648 compensatory, special, and exemplary, and be maintained to
 1649 provide an adequate fund to cover claims and liabilities for
 1650 loss, injury, or damage arising out of or connected with the

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1651 ownership, operation, maintenance, and management of the Coastal
1652 Link corridor.

1653 2. Any self-insured retention account shall be a
1654 segregated account of the agency and shall be subject to the
1655 same conditions, restrictions, exclusions, obligations, and
1656 duties included in any and all of the policies of liability
1657 insurance purchased under this paragraph.

1658 3. Unless otherwise specifically provided by general law,
1659 FECR and Brightline, and their respective officers, agents, and
1660 employees, are not officers, agents, employees, or subdivisions
1661 of the state and are not entitled to sovereign immunity.

1662
1663 Neither the assumption by contract to protect, defend,
1664 indemnify, and hold harmless; the purchase of insurance; nor the
1665 establishment of a self-insurance retention fund shall be deemed
1666 to be a waiver of any defense of sovereign immunity for tort
1667 claims or deemed to increase the limits of the agency's
1668 liability for tort claims as provided in s. 768.28.

1669 Section 25. For the purpose of incorporating the amendment
1670 made by this act to section 768.28, Florida Statutes, in a
1671 reference thereto, paragraph (c) of subsection (4) of section
1672 351.03, Florida Statutes, is reenacted to read:

1673 351.03 Railroad-highway grade-crossing warning signs and
1674 signals; audible warnings; exercise of reasonable care; blocking
1675 highways, roads, and streets during darkness.—

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1676 (4)

1677 (c) Nothing in this subsection shall be construed to
 1678 nullify the liability provisions of s. 768.28.

1679 Section 26. For the purpose of incorporating the amendment
 1680 made by this act to section 768.28, Florida Statutes, in a
 1681 reference thereto, subsection (6) of section 373.1395, Florida
 1682 Statutes, is reenacted to read:

1683 373.1395 Limitation on liability of water management
 1684 district with respect to areas made available to the public for
 1685 recreational purposes without charge.—

1686 (6) This section does not relieve any water management
 1687 district of any liability that would otherwise exist for gross
 1688 negligence or a deliberate, willful, or malicious injury to a
 1689 person or property. This section does not create or increase the
 1690 liability of any water management district or person beyond that
 1691 which is authorized by s. 768.28.

1692 Section 27. For the purpose of incorporating the amendment
 1693 made by this act to section 768.28, Florida Statutes, in a
 1694 reference thereto, paragraph (a) of subsection (3) of section
 1695 375.251, Florida Statutes, is reenacted to read:

1696 375.251 Limitation on liability of persons making
 1697 available to public certain areas for recreational purposes
 1698 without charge.—

1699 (3) (a) An owner of an area who enters into a written
 1700 agreement concerning the area with a state agency for outdoor

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1701 recreational purposes, where such agreement recognizes that the
 1702 state agency is responsible for personal injury, loss, or damage
 1703 resulting in whole or in part from the state agency's use of the
 1704 area under the terms of the agreement subject to the limitations
 1705 and conditions specified in s. 768.28, owes no duty of care to
 1706 keep the area safe for entry or use by others, or to give
 1707 warning to persons entering or going on the area of any
 1708 hazardous conditions, structures, or activities thereon. An
 1709 owner who enters into a written agreement concerning the area
 1710 with a state agency for outdoor recreational purposes:

1711 1. Is not presumed to extend any assurance that the area
 1712 is safe for any purpose;

1713 2. Does not incur any duty of care toward a person who
 1714 goes on the area that is subject to the agreement; or

1715 3. Is not liable or responsible for any injury to persons
 1716 or property caused by the act or omission of a person who goes
 1717 on the area that is subject to the agreement.

1718 Section 28. For the purpose of incorporating the amendment
 1719 made by this act to section 768.28, Florida Statutes, in a
 1720 reference thereto, subsection (9) of section 381.0056, Florida
 1721 Statutes, is reenacted to read:

1722 381.0056 School health services program.—

1723 (9) Any health care entity that provides school health
 1724 services under contract with the department pursuant to a school
 1725 health services plan developed under this section, and as part

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1726 of a school nurse services public-private partnership, is deemed
1727 to be a corporation acting primarily as an instrumentality of
1728 the state solely for the purpose of limiting liability pursuant
1729 to s. 768.28(5). The limitations on tort actions contained in s.
1730 768.28(5) shall apply to any action against the entity with
1731 respect to the provision of school health services, if the
1732 entity is acting within the scope of and pursuant to guidelines
1733 established in the contract or by rule of the department. The
1734 contract must require the entity, or the partnership on behalf
1735 of the entity, to obtain general liability insurance coverage,
1736 with any additional endorsement necessary to insure the entity
1737 for liability assumed by its contract with the department. The
1738 Legislature intends that insurance be purchased by entities, or
1739 by partnerships on behalf of the entity, to cover all liability
1740 claims, and under no circumstances shall the state or the
1741 department be responsible for payment of any claims or defense
1742 costs for claims brought against the entity or its subcontractor
1743 for services performed under the contract with the department.
1744 This subsection does not preclude consideration by the
1745 Legislature for payment by the state of any claims bill
1746 involving an entity contracting with the department pursuant to
1747 this section.

1748 Section 29. For the purpose of incorporating the amendment
1749 made by this act to section 768.28, Florida Statutes, in a
1750 reference thereto, subsection (3) of section 393.075, Florida

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1751 Statutes, is reenacted to read:

1752 393.075 General liability coverage.—

1753 (3) This section shall not be construed as designating or
 1754 not designating that a person who owns or operates a foster care
 1755 facility or group home facility as described in this section or
 1756 any other person is an employee or agent of the state. Nothing
 1757 in this section amends, expands, or supersedes the provisions of
 1758 s. 768.28.

1759 Section 30. For the purpose of incorporating the amendment
 1760 made by this act to section 768.28, Florida Statutes, in a
 1761 reference thereto, subsection (7) of section 394.9085, Florida
 1762 Statutes, is reenacted to read:

1763 394.9085 Behavioral provider liability.—

1764 (7) This section shall not be construed to waive sovereign
 1765 immunity for any governmental unit or other entity protected by
 1766 sovereign immunity. Section 768.28 shall continue to apply to
 1767 all governmental units and such entities.

1768 Section 31. For the purpose of incorporating the amendment
 1769 made by this act to section 768.28, Florida Statutes, in a
 1770 reference thereto, paragraph (g) of subsection (10) of section
 1771 395.1055, Florida Statutes, is reenacted to read:

1772 395.1055 Rules and enforcement.—

1773 (10) The agency shall establish a pediatric cardiac
 1774 technical advisory panel, pursuant to s. 20.052, to develop
 1775 procedures and standards for measuring outcomes of pediatric

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1776 cardiac catheterization programs and pediatric cardiovascular
 1777 surgery programs.

1778 (g) Panel members are agents of the state for purposes of
 1779 s. 768.28 throughout the good faith performance of the duties
 1780 assigned to them by the Secretary of Health Care Administration.

1781 Section 32. For the purpose of incorporating the amendment
 1782 made by this act to section 768.28, Florida Statutes, in a
 1783 reference thereto, paragraph (c) of subsection (17) of section
 1784 403.706, Florida Statutes, is reenacted to read:

1785 403.706 Local government solid waste responsibilities.—

1786 (17) To effect the purposes of this part, counties and
 1787 municipalities are authorized, in addition to other powers
 1788 granted pursuant to this part:

1789 (c) To waive sovereign immunity and immunity from suit in
 1790 federal court by vote of the governing body of the county or
 1791 municipality to the extent necessary to carry out the authority
 1792 granted in paragraphs (a) and (b), notwithstanding the
 1793 limitations prescribed in s. 768.28.

1794 Section 33. For the purpose of incorporating the amendment
 1795 made by this act to section 768.28, Florida Statutes, in a
 1796 reference thereto, paragraph (b) of subsection (15) of section
 1797 409.175, Florida Statutes, is reenacted to read:

1798 409.175 Licensure of family foster homes, residential
 1799 child-caring agencies, and child-placing agencies; public
 1800 records exemption.—

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1801 (15)
 1802 (b) This subsection may not be construed as designating or
 1803 not designating that a person who owns or operates a family
 1804 foster home as described in this subsection or any other person
 1805 is an employee or agent of the state. Nothing in this subsection
 1806 amends, expands, or supersedes the provisions of s. 768.28.

1807 Section 34. For the purpose of incorporating the amendment
 1808 made by this act to section 768.28, Florida Statutes, in
 1809 references thereto, subsection (1), paragraph (a) of subsection
 1810 (2), and paragraph (a) of subsection (3) of section 409.993,
 1811 Florida Statutes, are reenacted to read:

1812 409.993 Lead agencies and subcontractor liability.—

1813 (1) FINDINGS.—

1814 (a) The Legislature finds that the state has traditionally
 1815 provided foster care services to children who are the
 1816 responsibility of the state. As such, foster children have not
 1817 had the right to recover for injuries beyond the limitations
 1818 specified in s. 768.28. The Legislature has determined that
 1819 foster care and related services should be outsourced pursuant
 1820 to this section and that the provision of such services is of
 1821 paramount importance to the state. The purpose of such
 1822 outsourcing is to increase the level of safety, security, and
 1823 stability of children who are or become the responsibility of
 1824 the state. One of the components necessary to secure a safe and
 1825 stable environment for such children is the requirement that

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1826 private providers maintain liability insurance. As such,
1827 insurance needs to be available and remain available to
1828 nongovernmental foster care and related services providers
1829 without the resources of such providers being significantly
1830 reduced by the cost of maintaining such insurance.

1831 (b) The Legislature further finds that, by requiring the
1832 following minimum levels of insurance, children in outsourced
1833 foster care and related services will gain increased protection
1834 and rights of recovery in the event of injury than currently
1835 provided in s. 768.28.

1836 (2) LEAD AGENCY LIABILITY.—

1837 (a) Other than an entity to which s. 768.28 applies, an
1838 eligible community-based care lead agency, or its employees or
1839 officers, except as otherwise provided in paragraph (b), shall,
1840 as a part of its contract, obtain a minimum of \$1 million per
1841 occurrence with a policy period aggregate limit of \$3 million in
1842 general liability insurance coverage. The lead agency must also
1843 require that staff who transport client children and families in
1844 their personal automobiles in order to carry out their job
1845 responsibilities obtain minimum bodily injury liability
1846 insurance in the amount of \$100,000 per person per any one
1847 automobile accident, and subject to such limits for each person,
1848 \$300,000 for all damages resulting from any one automobile
1849 accident, on their personal automobiles. In lieu of personal
1850 motor vehicle insurance, the lead agency's casualty, liability,

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1851 or motor vehicle insurance carrier may provide nonowned
1852 automobile liability coverage. This insurance provides liability
1853 insurance for an automobile that the lead agency uses in
1854 connection with the lead agency's business but does not own,
1855 lease, rent, or borrow. This coverage includes an automobile
1856 owned by an employee of the lead agency or a member of the
1857 employee's household but only while the automobile is used in
1858 connection with the lead agency's business. The nonowned
1859 automobile coverage for the lead agency applies as excess
1860 coverage over any other collectible insurance. The personal
1861 automobile policy for the employee of the lead agency shall be
1862 primary insurance, and the nonowned automobile coverage of the
1863 lead agency acts as excess insurance to the primary insurance.
1864 The lead agency shall provide a minimum limit of \$1 million in
1865 nonowned automobile coverage. In a tort action brought against
1866 such a lead agency or employee, net economic damages shall be
1867 limited to \$2 million per liability claim and \$200,000 per
1868 automobile claim, including, but not limited to, past and future
1869 medical expenses, wage loss, and loss of earning capacity,
1870 offset by any collateral source payment paid or payable. In any
1871 tort action brought against a lead agency, noneconomic damages
1872 shall be limited to \$400,000 per claim. A claims bill may be
1873 brought on behalf of a claimant pursuant to s. 768.28 for any
1874 amount exceeding the limits specified in this paragraph. Any
1875 offset of collateral source payments made as of the date of the

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1876 settlement or judgment shall be in accordance with s. 768.76.
1877 The lead agency is not liable in tort for the acts or omissions
1878 of its subcontractors or the officers, agents, or employees of
1879 its subcontractors.

1880 (3) SUBCONTRACTOR LIABILITY.—

1881 (a) A subcontractor of an eligible community-based care
1882 lead agency that is a direct provider of foster care and related
1883 services to children and families, and its employees or
1884 officers, except as otherwise provided in paragraph (c), must,
1885 as a part of its contract, obtain a minimum of \$1 million per
1886 occurrence with a policy period aggregate limit of \$3 million in
1887 general liability insurance coverage. The subcontractor of a
1888 lead agency must also require that staff who transport client
1889 children and families in their personal automobiles in order to
1890 carry out their job responsibilities obtain minimum bodily
1891 injury liability insurance in the amount of \$100,000 per person
1892 in any one automobile accident, and subject to such limits for
1893 each person, \$300,000 for all damages resulting from any one
1894 automobile accident, on their personal automobiles. In lieu of
1895 personal motor vehicle insurance, the subcontractor's casualty,
1896 liability, or motor vehicle insurance carrier may provide
1897 nonowned automobile liability coverage. This insurance provides
1898 liability insurance for automobiles that the subcontractor uses
1899 in connection with the subcontractor's business but does not
1900 own, lease, rent, or borrow. This coverage includes automobiles

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1901 owned by the employees of the subcontractor or a member of the
1902 employee's household but only while the automobiles are used in
1903 connection with the subcontractor's business. The nonowned
1904 automobile coverage for the subcontractor applies as excess
1905 coverage over any other collectible insurance. The personal
1906 automobile policy for the employee of the subcontractor shall be
1907 primary insurance, and the nonowned automobile coverage of the
1908 subcontractor acts as excess insurance to the primary insurance.
1909 The subcontractor shall provide a minimum limit of \$1 million in
1910 nonowned automobile coverage. In a tort action brought against
1911 such subcontractor or employee, net economic damages shall be
1912 limited to \$2 million per liability claim and \$200,000 per
1913 automobile claim, including, but not limited to, past and future
1914 medical expenses, wage loss, and loss of earning capacity,
1915 offset by any collateral source payment paid or payable. In a
1916 tort action brought against such subcontractor, noneconomic
1917 damages shall be limited to \$400,000 per claim. A claims bill
1918 may be brought on behalf of a claimant pursuant to s. 768.28 for
1919 any amount exceeding the limits specified in this paragraph. Any
1920 offset of collateral source payments made as of the date of the
1921 settlement or judgment shall be in accordance with s. 768.76.

1922 Section 35. For the purpose of incorporating the amendment
1923 made by this act to section 768.28, Florida Statutes, in a
1924 reference thereto, subsection (8) of section 420.504, Florida
1925 Statutes, is reenacted to read:

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1926 | 420.504 Public corporation; creation, membership, terms,
 1927 | expenses.—

1928 | (8) The corporation is a corporation primarily acting as
 1929 | an instrumentality of the state, within the meaning of s.

1930 | 768.28.

1931 | Section 36. For the purpose of incorporating the amendment
 1932 | made by this act to section 768.28, Florida Statutes, in a
 1933 | reference thereto, subsection (3) of section 455.221, Florida
 1934 | Statutes, is reenacted to read:

1935 | 455.221 Legal and investigative services.—

1936 | (3) Any person retained by the department under contract
 1937 | to review materials, make site visits, or provide expert
 1938 | testimony regarding any complaint or application filed with the
 1939 | department relating to a profession under the jurisdiction of
 1940 | the department shall be considered an agent of the department in
 1941 | determining the state insurance coverage and sovereign immunity
 1942 | protection applicability of ss. 284.31 and 768.28.

1943 | Section 37. For the purpose of incorporating the amendment
 1944 | made by this act to section 768.28, Florida Statutes, in a
 1945 | reference thereto, subsection (5) of section 455.32, Florida
 1946 | Statutes, is reenacted to read:

1947 | 455.32 Management Privatization Act.—

1948 | (5) Any such corporation may hire staff as necessary to
 1949 | carry out its functions. Such staff are not public employees for
 1950 | the purposes of chapter 110 or chapter 112, except that the

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1951 board of directors and the employees of the corporation are
 1952 subject to the provisions of s. 112.061 and part III of chapter
 1953 112. The provisions of s. 768.28 apply to each such corporation,
 1954 which is deemed to be a corporation primarily acting as an
 1955 instrumentality of the state but which is not an agency within
 1956 the meaning of s. 20.03(1).

1957 Section 38. For the purpose of incorporating the amendment
 1958 made by this act to section 768.28, Florida Statutes, in a
 1959 reference thereto, subsection (3) of section 456.009, Florida
 1960 Statutes, is reenacted to read:

1961 456.009 Legal and investigative services.—

1962 (3) Any person retained by the department under contract
 1963 to review materials, make site visits, or provide expert
 1964 testimony regarding any complaint or application filed with the
 1965 department relating to a profession under the jurisdiction of
 1966 the department shall be considered an agent of the department in
 1967 determining the state insurance coverage and sovereign immunity
 1968 protection applicability of ss. 284.31 and 768.28.

1969 Section 39. For the purpose of incorporating the amendment
 1970 made by this act to section 768.28, Florida Statutes, in a
 1971 reference thereto, paragraph (a) of subsection (15) of section
 1972 456.076, Florida Statutes, is reenacted to read:

1973 456.076 Impaired practitioner programs.—

1974 (15) (a) A consultant retained pursuant to this section and
 1975 a consultant's directors, officers, employees, or agents shall

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1976 | be considered agents of the department for purposes of s. 768.28
 1977 | while acting within the scope of the consultant's duties under
 1978 | the contract with the department.

1979 | Section 40. For the purpose of incorporating the amendment
 1980 | made by this act to section 768.28, Florida Statutes, in a
 1981 | reference thereto, subsection (3) of section 471.038, Florida
 1982 | Statutes, is reenacted to read:

1983 | 471.038 Florida Engineers Management Corporation.—

1984 | (3) The Florida Engineers Management Corporation is
 1985 | created to provide administrative, investigative, and
 1986 | prosecutorial services to the board in accordance with the
 1987 | provisions of chapter 455 and this chapter. The management
 1988 | corporation may hire staff as necessary to carry out its
 1989 | functions. Such staff are not public employees for the purposes
 1990 | of chapter 110 or chapter 112, except that the board of
 1991 | directors and the staff are subject to the provisions of s.
 1992 | 112.061. The provisions of s. 768.28 apply to the management
 1993 | corporation, which is deemed to be a corporation primarily
 1994 | acting as an instrumentality of the state, but which is not an
 1995 | agency within the meaning of s. 20.03(1). The management
 1996 | corporation shall:

1997 | (a) Be a Florida corporation not for profit, incorporated
 1998 | under the provisions of chapter 617.

1999 | (b) Provide administrative, investigative, and
 2000 | prosecutorial services to the board in accordance with the

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2001 provisions of chapter 455, this chapter, and the contract
 2002 required by this section.

2003 (c) Receive, hold, and administer property and make only
 2004 prudent expenditures directly related to the responsibilities of
 2005 the board, and in accordance with the contract required by this
 2006 section.

2007 (d) Be approved by the board, and the department, to
 2008 operate for the benefit of the board and in the best interest of
 2009 the state.

2010 (e) Operate under a fiscal year that begins on July 1 of
 2011 each year and ends on June 30 of the following year.

2012 (f) Have a seven-member board of directors, five of whom
 2013 are to be appointed by the board and must be registrants
 2014 regulated by the board and two of whom are to be appointed by
 2015 the secretary and must be laypersons not regulated by the board.
 2016 All appointments shall be for 4-year terms. No member shall
 2017 serve more than two consecutive terms. Failure to attend three
 2018 consecutive meetings shall be deemed a resignation from the
 2019 board, and the vacancy shall be filled by a new appointment.

2020 (g) Select its officers in accordance with its bylaws. The
 2021 members of the board of directors who were appointed by the
 2022 board may be removed by the board.

2023 (h) Select the president of the management corporation,
 2024 who shall also serve as executive director to the board, subject
 2025 to approval of the board.

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2026 (i) Use a portion of the interest derived from the
 2027 management corporation account to offset the costs associated
 2028 with the use of credit cards for payment of fees by applicants
 2029 or licensees.

2030 (j) Operate under a written contract with the department
 2031 which is approved by the board. The contract must provide for,
 2032 but is not limited to:

2033 1. Submission by the management corporation of an annual
 2034 budget that complies with board rules for approval by the board
 2035 and the department.

2036 2. Annual certification by the board and the department
 2037 that the management corporation is complying with the terms of
 2038 the contract in a manner consistent with the goals and purposes
 2039 of the board and in the best interest of the state. This
 2040 certification must be reported in the board's minutes. The
 2041 contract must also provide for methods and mechanisms to resolve
 2042 any situation in which the certification process determines
 2043 noncompliance.

2044 3. Funding of the management corporation through
 2045 appropriations allocated to the regulation of professional
 2046 engineers from the Professional Regulation Trust Fund.

2047 4. The reversion to the board, or the state if the board
 2048 ceases to exist, of moneys, records, data, and property held in
 2049 trust by the management corporation for the benefit of the
 2050 board, if the management corporation is no longer approved to

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2051 operate for the board or the board ceases to exist. All records
2052 and data in a computerized database shall be returned to the
2053 department in a form that is compatible with the computerized
2054 database of the department.

2055 5. The securing and maintaining by the management
2056 corporation, during the term of the contract and for all acts
2057 performed during the term of the contract, of all liability
2058 insurance coverages in an amount to be approved by the board to
2059 defend, indemnify, and hold harmless the management corporation
2060 and its officers and employees, the department and its
2061 employees, and the state against all claims arising from state
2062 and federal laws. Such insurance coverage must be with insurers
2063 qualified and doing business in the state. The management
2064 corporation must provide proof of insurance to the department.
2065 The department and its employees and the state are exempt from
2066 and are not liable for any sum of money which represents a
2067 deductible, which sums shall be the sole responsibility of the
2068 management corporation. Violation of this subparagraph shall be
2069 grounds for terminating the contract.

2070 6. Payment by the management corporation, out of its
2071 allocated budget, to the department of all costs of
2072 representation by the board counsel, including salary and
2073 benefits, travel, and any other compensation traditionally paid
2074 by the department to other board counsel.

2075 7. Payment by the management corporation, out of its

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2076 allocated budget, to the department of all costs incurred by the
 2077 management corporation or the board for the Division of
 2078 Administrative Hearings of the Department of Management Services
 2079 and any other cost for utilization of these state services.

2080 8. Payment by the management corporation, out of its
 2081 allocated budget, to the department of reasonable costs
 2082 associated with the contract monitor.

2083 (k) Provide for an annual financial audit of its financial
 2084 accounts and records by an independent certified public
 2085 accountant. The annual audit report shall include a management
 2086 letter in accordance with s. 11.45 and a detailed supplemental
 2087 schedule of expenditures for each expenditure category. The
 2088 annual audit report must be submitted to the board, the
 2089 department, and the Auditor General for review.

2090 (l) Provide for persons not employed by the corporation
 2091 who are charged with the responsibility of receiving and
 2092 depositing fee and fine revenues to have a faithful performance
 2093 bond in such an amount and according to such terms as shall be
 2094 determined in the contract.

2095 (m) Submit to the secretary, the board, and the
 2096 Legislature, on or before October 1 of each year, a report on
 2097 the status of the corporation which includes, but is not limited
 2098 to, information concerning the programs and funds that have been
 2099 transferred to the corporation. The report must include: the
 2100 number of license applications received; the number approved and

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2101 denied and the number of licenses issued; the number of
 2102 examinations administered and the number of applicants who
 2103 passed or failed the examination; the number of complaints
 2104 received; the number determined to be legally sufficient; the
 2105 number dismissed; the number determined to have probable cause;
 2106 the number of administrative complaints issued and the status of
 2107 the complaints; and the number and nature of disciplinary
 2108 actions taken by the board.

2109 (n) Develop and submit to the department, performance
 2110 standards and measurable outcomes for the board to adopt by rule
 2111 in order to facilitate efficient and cost-effective regulation.

2112 Section 41. For the purpose of incorporating the amendment
 2113 made by this act to section 768.28, Florida Statutes, in a
 2114 reference thereto, paragraph (b) of subsection (11) of section
 2115 472.006, Florida Statutes, is reenacted to read:

2116 472.006 Department; powers and duties.—The department
 2117 shall:

2118 (11) Provide legal counsel for the board by contracting
 2119 with the Department of Legal Affairs, by retaining private
 2120 counsel pursuant to s. 287.059, or by providing department staff
 2121 counsel. The board shall periodically review and evaluate the
 2122 services provided by its board counsel. Fees and costs of such
 2123 counsel shall be paid from the General Inspection Trust Fund,
 2124 subject to ss. 215.37 and 472.011. All contracts for independent
 2125 legal counsel must provide for periodic review and evaluation by

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2126 | the board and the department of services provided.

2127 | (b) Any person retained by the department under contract
 2128 | to review materials, make site visits, or provide expert
 2129 | testimony regarding any complaint or application filed with the
 2130 | department relating to the practice of surveying and mapping
 2131 | shall be considered an agent of the department in determining
 2132 | the state insurance coverage and sovereign immunity protection
 2133 | applicability of ss. 284.31 and 768.28.

2134 | Section 42. For the purpose of incorporating the amendment
 2135 | made by this act to section 768.28, Florida Statutes, in a
 2136 | reference thereto, subsection (7) of section 497.167, Florida
 2137 | Statutes, is reenacted to read:

2138 | 497.167 Administrative matters.—

2139 | (7) Any person retained by the department under contract
 2140 | to review materials, make site visits, or provide expert
 2141 | testimony regarding any complaint or application filed with the
 2142 | department, relating to regulation under this chapter, shall be
 2143 | considered an agent of the department in determining the state
 2144 | insurance coverage and sovereign immunity protection
 2145 | applicability of ss. 284.31 and 768.28.

2146 | Section 43. For the purpose of incorporating the amendment
 2147 | made by this act to section 768.28, Florida Statutes, in a
 2148 | reference thereto, subsection (2) of section 513.118, Florida
 2149 | Statutes, is reenacted to read:

2150 | 513.118 Conduct on premises; refusal of service.—

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2151 (2) The operator of a recreational vehicle park may
 2152 request that a transient guest or visitor who violates
 2153 subsection (1) leave the premises immediately. A person who
 2154 refuses to leave the premises commits the offense of trespass as
 2155 provided in s. 810.08, and the operator may call a law
 2156 enforcement officer to have the person and his or her property
 2157 removed under the supervision of the officer. A law enforcement
 2158 officer is not liable for any claim involving the removal of the
 2159 person or property from the recreational vehicle park under this
 2160 section, except as provided in s. 768.28. If conditions do not
 2161 allow for immediate removal of the person's property, he or she
 2162 may arrange a reasonable time, not to exceed 48 hours, with the
 2163 operator to come remove the property, accompanied by a law
 2164 enforcement officer.

2165 Section 44. For the purpose of incorporating the amendment
 2166 made by this act to section 768.28, Florida Statutes, in a
 2167 reference thereto, subsection (1) of section 548.046, Florida
 2168 Statutes, is reenacted to read:

2169 548.046 Physician's attendance at match; examinations;
 2170 cancellation of match.—

2171 (1) The commission, or the commission representative,
 2172 shall assign to each match at least one physician who shall
 2173 observe the physical condition of the participants and advise
 2174 the commissioner or commission representative in charge and the
 2175 referee of the participants' conditions before, during, and

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2176 after the match. The commission shall establish a schedule of
 2177 fees for the physician's services. The physician's fee shall be
 2178 paid by the promoter of the match attended by the physician. The
 2179 physician shall be considered an agent of the commission in
 2180 determining the state insurance coverage and sovereign immunity
 2181 protection applicability of ss. 284.31 and 768.28.

2182 Section 45. For the purpose of incorporating the amendment
 2183 made by this act to section 768.28, Florida Statutes, in a
 2184 reference thereto, subsection (8) of section 556.106, Florida
 2185 Statutes, is reenacted to read:

2186 556.106 Liability of the member operator, excavator, and
 2187 system.—

2188 (8) Any liability of the state, its agencies, or its
 2189 subdivisions which arises out of this chapter is subject to the
 2190 provisions of s. 768.28.

2191 Section 46. For the purpose of incorporating the amendment
 2192 made by this act to section 768.28, Florida Statutes, in a
 2193 reference thereto, paragraph (e) of subsection (4) of section
 2194 589.19, Florida Statutes, is reenacted to read:

2195 589.19 Creation of certain state forests; naming of
 2196 certain state forests; Operation Outdoor Freedom Program.—

2197 (4)

2198 (e)1. A private landowner who provides land for
 2199 designation and use as an Operation Outdoor Freedom Program
 2200 hunting site shall have limited liability pursuant to s.

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2201 375.251.

2202 2. A private landowner who consents to the designation and
 2203 use of land as part of the Operation Outdoor Freedom Program
 2204 without compensation shall be considered a volunteer, as defined
 2205 in s. 110.501, and shall be covered by state liability
 2206 protection pursuant to s. 768.28, including s. 768.28(9).

2207 3. This subsection does not:

2208 a. Relieve any person of liability that would otherwise
 2209 exist for deliberate, willful, or malicious injury to persons or
 2210 property.

2211 b. Create or increase the liability of any person.

2212 Section 47. For the purpose of incorporating the amendment
 2213 made by this act to section 768.28, Florida Statutes, in
 2214 references thereto, subsections (3) and (4) of section 627.7491,
 2215 Florida Statutes, are reenacted to read:

2216 627.7491 Official law enforcement vehicles; motor vehicle
 2217 insurance requirements.—

2218 (3) Any suit or action brought or maintained against an
 2219 employing agency for damages arising out of tort pursuant to
 2220 this section, including, without limitation, any claim arising
 2221 upon account of an act causing loss of property, personal
 2222 injury, or death, shall be subject to the limitations provided
 2223 in s. 768.28(5).

2224 (4) The requirements of this section may be met by any
 2225 method authorized by s. 768.28(16).

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2226 Section 48. For the purpose of incorporating the amendment
 2227 made by this act to section 768.28, Florida Statutes, in a
 2228 reference thereto, paragraph (c) of subsection (2) of section
 2229 723.0611, Florida Statutes, is reenacted to read:

2230 723.0611 Florida Mobile Home Relocation Corporation.—

2231 (2)

2232 (c) The corporation shall, for purposes of s. 768.28, be
 2233 considered an agency of the state. Agents or employees of the
 2234 corporation, members of the board of directors of the
 2235 corporation, or representatives of the Division of Florida
 2236 Condominiums, Timeshares, and Mobile Homes shall be considered
 2237 officers, employees, or agents of the state, and actions against
 2238 them and the corporation shall be governed by s. 768.28.

2239 Section 49. For the purpose of incorporating the amendment
 2240 made by this act to section 768.28, Florida Statutes, in a
 2241 reference thereto, subsection (5) of section 760.11, Florida
 2242 Statutes, is reenacted to read:

2243 760.11 Administrative and civil remedies; construction.—

2244 (5) In any civil action brought under this section, the
 2245 court may issue an order prohibiting the discriminatory practice
 2246 and providing affirmative relief from the effects of the
 2247 practice, including back pay. The court may also award
 2248 compensatory damages, including, but not limited to, damages for
 2249 mental anguish, loss of dignity, and any other intangible
 2250 injuries, and punitive damages. The provisions of ss. 768.72 and

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2251 768.73 do not apply to this section. The judgment for the total
 2252 amount of punitive damages awarded under this section to an
 2253 aggrieved person shall not exceed \$100,000. In any action or
 2254 proceeding under this subsection, the court, in its discretion,
 2255 may allow the prevailing party a reasonable attorney's fee as
 2256 part of the costs. It is the intent of the Legislature that this
 2257 provision for attorney's fees be interpreted in a manner
 2258 consistent with federal case law involving a Title VII action.
 2259 The right to trial by jury is preserved in any such private
 2260 right of action in which the aggrieved person is seeking
 2261 compensatory or punitive damages, and any party may demand a
 2262 trial by jury. The commission's determination of reasonable
 2263 cause is not admissible into evidence in any civil proceeding,
 2264 including any hearing or trial, except to establish for the
 2265 court the right to maintain the private right of action. A civil
 2266 action brought under this section shall be commenced no later
 2267 than 1 year after the date of determination of reasonable cause
 2268 by the commission. The commencement of such action shall divest
 2269 the commission of jurisdiction of the complaint, except that the
 2270 commission may intervene in the civil action as a matter of
 2271 right. Notwithstanding the above, the state and its agencies and
 2272 subdivisions shall not be liable for punitive damages. The total
 2273 amount of recovery against the state and its agencies and
 2274 subdivisions shall not exceed the limitation as set forth in s.
 2275 768.28(5).

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2276 Section 50. For the purpose of incorporating the amendment
 2277 made by this act to section 768.28, Florida Statutes, in a
 2278 reference thereto, subsection (4) of section 766.1115, Florida
 2279 Statutes, is reenacted to read:

2280 766.1115 Health care providers; creation of agency
 2281 relationship with governmental contractors.—

2282 (4) CONTRACT REQUIREMENTS.—A health care provider that
 2283 executes a contract with a governmental contractor to deliver
 2284 health care services on or after April 17, 1992, as an agent of
 2285 the governmental contractor is an agent for purposes of s.
 2286 768.28(9), while acting within the scope of duties under the
 2287 contract, if the contract complies with the requirements of this
 2288 section and regardless of whether the individual treated is
 2289 later found to be ineligible. A health care provider shall
 2290 continue to be an agent for purposes of s. 768.28(9) for 30 days
 2291 after a determination of ineligibility to allow for treatment
 2292 until the individual transitions to treatment by another health
 2293 care provider. A health care provider under contract with the
 2294 state may not be named as a defendant in any action arising out
 2295 of medical care or treatment provided on or after April 17,
 2296 1992, under contracts entered into under this section. The
 2297 contract must provide that:

2298 (a) The right of dismissal or termination of any health
 2299 care provider delivering services under the contract is retained
 2300 by the governmental contractor.

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2301 (b) The governmental contractor has access to the patient
2302 records of any health care provider delivering services under
2303 the contract.

2304 (c) Adverse incidents and information on treatment
2305 outcomes must be reported by any health care provider to the
2306 governmental contractor if the incidents and information pertain
2307 to a patient treated under the contract. The health care
2308 provider shall submit the reports required by s. 395.0197. If an
2309 incident involves a professional licensed by the Department of
2310 Health or a facility licensed by the Agency for Health Care
2311 Administration, the governmental contractor shall submit such
2312 incident reports to the appropriate department or agency, which
2313 shall review each incident and determine whether it involves
2314 conduct by the licensee that is subject to disciplinary action.
2315 All patient medical records and any identifying information
2316 contained in adverse incident reports and treatment outcomes
2317 which are obtained by governmental entities under this paragraph
2318 are confidential and exempt from the provisions of s. 119.07(1)
2319 and s. 24(a), Art. I of the State Constitution.

2320 (d) Patient selection and initial referral must be made by
2321 the governmental contractor or the provider. Patients may not be
2322 transferred to the provider based on a violation of the
2323 antidumping provisions of the Omnibus Budget Reconciliation Act
2324 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
2325 chapter 395.

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2326 (e) If emergency care is required, the patient need not be
 2327 referred before receiving treatment, but must be referred within
 2328 48 hours after treatment is commenced or within 48 hours after
 2329 the patient has the mental capacity to consent to treatment,
 2330 whichever occurs later.

2331 (f) The provider is subject to supervision and regular
 2332 inspection by the governmental contractor.

2333 (g) As an agent of the governmental contractor for
 2334 purposes of s. 768.28(9), while acting within the scope of
 2335 duties under the contract, a health care provider licensed under
 2336 chapter 466 may allow a patient, or a parent or guardian of the
 2337 patient, to voluntarily contribute a monetary amount to cover
 2338 costs of dental laboratory work related to the services provided
 2339 to the patient. This contribution may not exceed the actual cost
 2340 of the dental laboratory charges.

2341
 2342 A governmental contractor that is also a health care provider is
 2343 not required to enter into a contract under this section with
 2344 respect to the health care services delivered by its employees.

2345 Section 51. For the purpose of incorporating the amendment
 2346 made by this act to section 768.28, Florida Statutes, in a
 2347 reference thereto, subsection (2) of section 766.112, Florida
 2348 Statutes, is reenacted to read:

2349 766.112 Comparative fault.—

2350 (2) In an action for damages for personal injury or

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2351 wrongful death arising out of medical negligence, whether in
 2352 contract or tort, when an apportionment of damages pursuant to
 2353 s. 768.81 is attributed to a board of trustees of a state
 2354 university, the court shall enter judgment against the board of
 2355 trustees on the basis of the board's percentage of fault and not
 2356 on the basis of the doctrine of joint and several liability. The
 2357 sole remedy available to a claimant to collect a judgment or
 2358 settlement against a board of trustees, subject to the
 2359 provisions of this subsection, shall be pursuant to s. 768.28.

2360 Section 52. For the purpose of incorporating the amendment
 2361 made by this act to section 768.28, Florida Statutes, in a
 2362 reference thereto, subsection (3) of section 768.1355, Florida
 2363 Statutes, is reenacted to read:

2364 768.1355 Florida Volunteer Protection Act.—

2365 (3) Members of elected or appointed boards, councils, and
 2366 commissions of the state, counties, municipalities, authorities,
 2367 and special districts shall incur no civil liability and shall
 2368 have immunity from suit as provided in s. 768.28 for acts or
 2369 omissions by members relating to members' conduct of their
 2370 official duties. It is the intent of the Legislature to
 2371 encourage our best and brightest people to serve on elected and
 2372 appointed boards, councils, and commissions.

2373 Section 53. For the purpose of incorporating the amendment
 2374 made by this act to section 768.28, Florida Statutes, in a
 2375 reference thereto, subsection (7) of section 768.1382, Florida

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2376 Statutes, is reenacted to read:

2377 768.1382 Streetlights, security lights, and other similar
2378 illumination; limitation on liability.—

2379 (7) In the event that there is any conflict between this
2380 section and s. 768.81, or any other section of the Florida
2381 Statutes, this section shall control. Further, nothing in this
2382 section shall impact or waive any provision of s. 768.28.

2383 Section 54. For the purpose of incorporating the amendment
2384 made by this act to section 768.28, Florida Statutes, in a
2385 reference thereto, subsection (4) of section 768.295, Florida
2386 Statutes, is reenacted to read:

2387 768.295 Strategic Lawsuits Against Public Participation
2388 (SLAPP) prohibited.—

2389 (4) A person or entity sued by a governmental entity or
2390 another person in violation of this section has a right to an
2391 expeditious resolution of a claim that the suit is in violation
2392 of this section. A person or entity may move the court for an
2393 order dismissing the action or granting final judgment in favor
2394 of that person or entity. The person or entity may file a motion
2395 for summary judgment, together with supplemental affidavits,
2396 seeking a determination that the claimant's or governmental
2397 entity's lawsuit has been brought in violation of this section.
2398 The claimant or governmental entity shall thereafter file a
2399 response and any supplemental affidavits. As soon as
2400 practicable, the court shall set a hearing on the motion, which

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2401 shall be held at the earliest possible time after the filing of
 2402 the claimant's or governmental entity's response. The court may
 2403 award, subject to the limitations in s. 768.28, the party sued
 2404 by a governmental entity actual damages arising from a
 2405 governmental entity's violation of this section. The court shall
 2406 award the prevailing party reasonable attorney fees and costs
 2407 incurred in connection with a claim that an action was filed in
 2408 violation of this section.

2409 Section 55. For the purpose of incorporating the amendment
 2410 made by this act to section 768.28, Florida Statutes, in a
 2411 reference thereto, section 946.5026, Florida Statutes, is
 2412 reenacted to read:

2413 946.5026 Sovereign immunity in tort actions.—The
 2414 provisions of s. 768.28 shall be applicable to the corporation
 2415 established under this part, which is deemed to be a corporation
 2416 primarily acting as an instrumentality of the state.

2417 Section 56. For the purpose of incorporating the amendment
 2418 made by this act to section 768.28, Florida Statutes, in a
 2419 reference thereto, subsection (3) of section 946.514, Florida
 2420 Statutes, is reenacted to read:

2421 946.514 Civil rights of inmates; inmates not state
 2422 employees; liability of corporation for inmate injuries.—

2423 (3) The corporation is liable for inmate injury to the
 2424 extent specified in s. 768.28; however, the members of the board
 2425 of directors are not individually liable to any inmate for any

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2426 injury sustained in any correctional work program operated by
 2427 the corporation.

2428 Section 57. For the purpose of incorporating the amendment
 2429 made by this act to section 768.28, Florida Statutes, in a
 2430 reference thereto, subsection (8) of section 961.06, Florida
 2431 Statutes, is reenacted to read:

2432 961.06 Compensation for wrongful incarceration.—

2433 (8) Any payment made under this act does not constitute a
 2434 waiver of any defense of sovereign immunity or an increase in
 2435 the limits of liability on behalf of the state or any person
 2436 subject to s. 768.28 or any other law.

2437 Section 58. For the purpose of incorporating the amendment
 2438 made by this act to section 768.28, Florida Statutes, in a
 2439 reference thereto, subsection (3) of section 984.09, Florida
 2440 Statutes, is reenacted to read:

2441 984.09 Punishment for contempt of court; alternative
 2442 sanctions.—

2443 (3) ALTERNATIVE SANCTIONS.—Upon determining that a child
 2444 has committed direct contempt of court or indirect contempt of a
 2445 valid court order, the court may immediately request the circuit
 2446 alternative sanctions coordinator to recommend the most
 2447 appropriate available alternative sanction and shall order the
 2448 child to perform up to 50 hours of community service or a
 2449 similar alternative sanction, unless an alternative sanction is
 2450 unavailable or inappropriate, or unless the child has failed to

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2451 | comply with a prior alternative sanction. Alternative contempt
 2452 | sanctions may be provided by local industry or by any nonprofit
 2453 | organization or any public or private business or service entity
 2454 | that has entered into a contract with the department to act as
 2455 | an agent of the state to provide voluntary supervision of
 2456 | children on behalf of the state in exchange for the labor of
 2457 | children and limited immunity in accordance with s. 768.28(11).

2458 | Section 59. For the purpose of incorporating the amendment
 2459 | made by this act to section 768.28, Florida Statutes, in a
 2460 | reference thereto, paragraph (h) of subsection (12) of section
 2461 | 1002.33, Florida Statutes, is reenacted to read:

2462 | 1002.33 Charter schools.—

2463 | (12) EMPLOYEES OF CHARTER SCHOOLS.—

2464 | (h) For the purposes of tort liability, the charter
 2465 | school, including its governing body and employees, shall be
 2466 | governed by s. 768.28. This paragraph does not include any for-
 2467 | profit entity contracted by the charter school or its governing
 2468 | body.

2469 | Section 60. For the purpose of incorporating the amendment
 2470 | made by this act to section 768.28, Florida Statutes, in a
 2471 | reference thereto, paragraph (b) of subsection (6) of section
 2472 | 1002.333, Florida Statutes, is reenacted to read:

2473 | 1002.333 Persistently low-performing schools.—

2474 | (6) STATUTORY AUTHORITY.—

2475 | (b) For the purposes of tort liability, the hope operator,

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2476 the school of hope, and its employees or agents shall be
 2477 governed by s. 768.28. The sponsor shall not be liable for civil
 2478 damages under state law for the employment actions or personal
 2479 injury, property damage, or death resulting from an act or
 2480 omission of a hope operator, the school of hope, or its
 2481 employees or agents. This paragraph does not include any for-
 2482 profit entity contracted by the charter school or its governing
 2483 body.

2484 Section 61. For the purpose of incorporating the amendment
 2485 made by this act to section 768.28, Florida Statutes, in a
 2486 reference thereto, subsection (17) of section 1002.34, Florida
 2487 Statutes, is reenacted to read:

2488 1002.34 Charter technical career centers.—

2489 (17) IMMUNITY.—For the purposes of tort liability, the
 2490 governing body and employees of a center are governed by s.
 2491 768.28.

2492 Section 62. For the purpose of incorporating the amendment
 2493 made by this act to section 768.28, Florida Statutes, in a
 2494 reference thereto, subsection (2) of section 1002.37, Florida
 2495 Statutes, is reenacted to read:

2496 1002.37 The Florida Virtual School.—

2497 (2) The Florida Virtual School shall be governed by a
 2498 board of trustees comprised of seven members appointed by the
 2499 Governor to 4-year staggered terms. The board of trustees shall
 2500 be a public agency entitled to sovereign immunity pursuant to s.

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2501 768.28, and board members shall be public officers who shall
 2502 bear fiduciary responsibility for the Florida Virtual School.
 2503 The board of trustees shall have the following powers and
 2504 duties:

2505 (a)1. The board of trustees shall meet at least 4 times
 2506 each year, upon the call of the chair, or at the request of a
 2507 majority of the membership.

2508 2. The fiscal year for the Florida Virtual School shall be
 2509 the state fiscal year as provided in s. 216.011(1)(q).

2510 (b) The board of trustees shall be responsible for the
 2511 Florida Virtual School's development of a state-of-the-art
 2512 technology-based education delivery system that is cost-
 2513 effective, educationally sound, marketable, and capable of
 2514 sustaining a self-sufficient delivery system through the Florida
 2515 Education Finance Program.

2516 (c) The board of trustees shall aggressively seek avenues
 2517 to generate revenue to support its future endeavors, and shall
 2518 enter into agreements with distance learning providers. The
 2519 board of trustees may acquire, enjoy, use, and dispose of
 2520 patents, copyrights, and trademarks and any licenses and other
 2521 rights or interests thereunder or therein. Ownership of all such
 2522 patents, copyrights, trademarks, licenses, and rights or
 2523 interests thereunder or therein shall vest in the state, with
 2524 the board of trustees having full right of use and full right to
 2525 retain the revenues derived therefrom. Any funds realized from

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2526 patents, copyrights, trademarks, or licenses shall be considered
2527 internal funds as provided in s. 1011.07. Such funds shall be
2528 used to support the school's marketing and research and
2529 development activities in order to improve courseware and
2530 services to its students.

2531 (d) The board of trustees shall be responsible for the
2532 administration and control of all local school funds derived
2533 from all activities or sources and shall prescribe the
2534 principles and procedures to be followed in administering these
2535 funds.

2536 (e) The Florida Virtual School may accrue supplemental
2537 revenue from supplemental support organizations, which include,
2538 but are not limited to, alumni associations, foundations,
2539 parent-teacher associations, and booster associations. The
2540 governing body of each supplemental support organization shall
2541 recommend the expenditure of moneys collected by the
2542 organization for the benefit of the school. Such expenditures
2543 shall be contingent upon the review of the executive director.
2544 The executive director may override any proposed expenditure of
2545 the organization that would violate Florida law or breach sound
2546 educational management.

2547 (f) In accordance with law and rules of the State Board of
2548 Education, the board of trustees shall administer and maintain
2549 personnel programs for all employees of the board of trustees
2550 and the Florida Virtual School. The board of trustees may adopt

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2551 rules, policies, and procedures related to the appointment,
2552 employment, and removal of personnel.

2553 1. The board of trustees shall determine the compensation,
2554 including salaries and fringe benefits, and other conditions of
2555 employment for such personnel.

2556 2. The board of trustees may establish and maintain a
2557 personnel loan or exchange program by which persons employed by
2558 the board of trustees for the Florida Virtual School as academic
2559 administrative and instructional staff may be loaned to, or
2560 exchanged with persons employed in like capacities by, public
2561 agencies either within or without this state, or by private
2562 industry. With respect to public agency employees, the program
2563 authorized by this subparagraph shall be consistent with the
2564 requirements of part II of chapter 112. The salary and benefits
2565 of board of trustees personnel participating in the loan or
2566 exchange program shall be continued during the period of time
2567 they participate in a loan or exchange program, and such
2568 personnel shall be deemed to have no break in creditable or
2569 continuous service or employment during such time. The salary
2570 and benefits of persons participating in the personnel loan or
2571 exchange program who are employed by public agencies or private
2572 industry shall be paid by the originating employers of those
2573 participants, and such personnel shall be deemed to have no
2574 break in creditable or continuous service or employment during
2575 such time.

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2576 3. The employment of all Florida Virtual School academic
2577 administrative and instructional personnel shall be subject to
2578 rejection for cause by the board of trustees, and shall be
2579 subject to policies of the board of trustees relative to
2580 certification, tenure, leaves of absence, sabbaticals,
2581 remuneration, and such other conditions of employment as the
2582 board of trustees deems necessary and proper, not inconsistent
2583 with law.

2584 4. Each person employed by the board of trustees in an
2585 academic administrative or instructional capacity with the
2586 Florida Virtual School shall be entitled to a contract as
2587 provided by rules of the board of trustees.

2588 5. All employees except temporary, seasonal, and student
2589 employees may be state employees for the purpose of being
2590 eligible to participate in the Florida Retirement System and
2591 receive benefits. The classification and pay plan, including
2592 terminal leave and other benefits, and any amendments thereto,
2593 shall be subject to review and approval by the Department of
2594 Management Services and the Executive Office of the Governor
2595 prior to adoption.

2596 (g) The board of trustees shall establish priorities for
2597 admission of students in accordance with paragraph (1)(b).

2598 (h) The board of trustees shall establish and distribute
2599 to all school districts and high schools in the state procedures
2600 for enrollment of students in courses offered by the Florida

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2602 (i) The board of trustees shall establish criteria
 2603 defining the elements of an approved franchise. The board of
 2604 trustees may enter into franchise agreements with Florida
 2605 district school boards and may establish the terms and
 2606 conditions governing such agreements. The board of trustees
 2607 shall establish the performance and accountability measures and
 2608 report the performance of each school district franchise to the
 2609 Commissioner of Education.

2610 (j) The board of trustees shall submit to the State Board
 2611 of Education both forecasted and actual enrollments and credit
 2612 completions for the Florida Virtual School, according to
 2613 procedures established by the State Board of Education. At a
 2614 minimum, such procedures must include the number of public,
 2615 private, and home education students served by program and by
 2616 county of residence.

2617 (k) The board of trustees shall provide for the content
 2618 and custody of student and employee personnel records. Student
 2619 records shall be subject to the provisions of s. 1002.22.
 2620 Employee records shall be subject to the provisions of s.
 2621 1012.31.

2622 (l) The financial records and accounts of the Florida
 2623 Virtual School shall be maintained under the direction of the
 2624 board of trustees and under rules adopted by the State Board of
 2625 Education for the uniform system of financial records and

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2626 | accounts for the schools of the state.

2627 |

2628 | The Governor shall designate the initial chair of the board of
 2629 | trustees to serve a term of 4 years. Members of the board of
 2630 | trustees shall serve without compensation, but may be reimbursed
 2631 | for per diem and travel expenses pursuant to s. 112.061. The
 2632 | board of trustees shall be a body corporate with all the powers
 2633 | of a body corporate and such authority as is needed for the
 2634 | proper operation and improvement of the Florida Virtual School.
 2635 | The board of trustees is specifically authorized to adopt rules,
 2636 | policies, and procedures, consistent with law and rules of the
 2637 | State Board of Education related to governance, personnel,
 2638 | budget and finance, administration, programs, curriculum and
 2639 | instruction, travel and purchasing, technology, students,
 2640 | contracts and grants, and property as necessary for optimal,
 2641 | efficient operation of the Florida Virtual School. Tangible
 2642 | personal property owned by the board of trustees shall be
 2643 | subject to the provisions of chapter 273.

2644 | Section 63. For the purpose of incorporating the amendment
 2645 | made by this act to section 768.28, Florida Statutes, in a
 2646 | reference thereto, paragraph (1) of subsection (3) of section
 2647 | 1002.55, Florida Statutes, is reenacted to read:

2648 | 1002.55 School-year prekindergarten program delivered by
 2649 | private prekindergarten providers.—

2650 | (3) To be eligible to deliver the prekindergarten program,

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2651 a private prekindergarten provider must meet each of the
2652 following requirements:

2653 (1) Notwithstanding paragraph (j), for a private
2654 prekindergarten provider that is a state agency or a subdivision
2655 thereof, as defined in s. 768.28(2), the provider must agree to
2656 notify the coalition of any additional liability coverage
2657 maintained by the provider in addition to that otherwise
2658 established under s. 768.28. The provider shall indemnify the
2659 coalition to the extent permitted by s. 768.28. Notwithstanding
2660 paragraph (j), for a child development program that is
2661 accredited by a national accrediting body and operates on a
2662 military installation that is certified by the United States
2663 Department of Defense, the provider may demonstrate liability
2664 coverage by affirming that it is subject to the Federal Tort
2665 Claims Act, 28 U.S.C. ss. 2671 et seq.

2666 Section 64. For the purpose of incorporating the amendment
2667 made by this act to section 768.28, Florida Statutes, in a
2668 reference thereto, subsection (10) of section 1002.83, Florida
2669 Statutes, is reenacted to read:

2670 1002.83 Early learning coalitions.—

2671 (10) For purposes of tort liability, each member or
2672 employee of an early learning coalition shall be governed by s.
2673 768.28.

2674 Section 65. For the purpose of incorporating the amendment
2675 made by this act to section 768.28, Florida Statutes, in a

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2676 reference thereto, paragraph (p) of subsection (1) of section
 2677 1002.88, Florida Statutes, is reenacted to read:

2678 1002.88 School readiness program provider standards;
 2679 eligibility to deliver the school readiness program.—

2680 (1) To be eligible to deliver the school readiness
 2681 program, a school readiness program provider must:

2682 (p) Notwithstanding paragraph (m), for a provider that is
 2683 a state agency or a subdivision thereof, as defined in s.

2684 768.28(2), agree to notify the coalition of any additional
 2685 liability coverage maintained by the provider in addition to
 2686 that otherwise established under s. 768.28. The provider shall
 2687 indemnify the coalition to the extent permitted by s. 768.28.

2688 Notwithstanding paragraph (m), for a child development program
 2689 that is accredited by a national accrediting body and operates
 2690 on a military installation that is certified by the United
 2691 States Department of Defense, the provider may demonstrate
 2692 liability coverage by affirming that it is subject to the
 2693 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

2694 Section 66. For the purpose of incorporating the amendment
 2695 made by this act to section 768.28, Florida Statutes, in a
 2696 reference thereto, subsection (1) of section 1006.24, Florida
 2697 Statutes, is reenacted to read:

2698 1006.24 Tort liability; liability insurance.—

2699 (1) Each district school board shall be liable for tort
 2700 claims arising out of any incident or occurrence involving a

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2701 school bus or other motor vehicle owned, maintained, operated,
 2702 or used by the district school board to transport persons, to
 2703 the same extent and in the same manner as the state or any of
 2704 its agencies or subdivisions is liable for tort claims under s.
 2705 768.28, except that the total liability to persons being
 2706 transported for all claims or judgments of such persons arising
 2707 out of the same incident or occurrence shall not exceed an
 2708 amount equal to \$5,000 multiplied by the rated seating capacity
 2709 of the school bus or other vehicle, as determined by rules of
 2710 the State Board of Education, or \$100,000, whichever is greater.
 2711 The provisions of s. 768.28 apply to all claims or actions
 2712 brought against district school boards, as authorized in this
 2713 subsection.

2714 Section 67. For the purpose of incorporating the amendment
 2715 made by this act to section 768.28, Florida Statutes, in a
 2716 reference thereto, paragraph (b) of subsection (2) of section
 2717 1006.261, Florida Statutes, is reenacted to read:

2718 1006.261 Use of school buses for public purposes.—

2719 (2)

2720 (b) For purposes of liability for negligence, state
 2721 agencies or subdivisions as defined in s. 768.28(2) shall be
 2722 covered by s. 768.28. Every other corporation or organization
 2723 shall provide liability insurance coverage in the minimum
 2724 amounts of \$100,000 on any claim or judgment and \$200,000 on all
 2725 claims and judgments arising from the same incident or

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2726 | occurrence.

2727 | Section 68. This act shall take effect October 1, 2026.