

1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; revising the statutory limits on
4 liability for tort claims against the state and its
5 agencies and subdivisions; revising requirements for
6 the state or an agency or a subdivision of the state
7 to agree to settle a claim or judgment; prohibiting an
8 insurance policy from conditioning the payment of
9 benefits on the enactment of a claim bill; specifying
10 that the limitations in effect on the date a final
11 judgment is entered apply to that claim; requiring the
12 Department of Financial Services to adjust the
13 limitations on tort liability every year beginning on
14 a specified date; revising the timeframe within which
15 the appropriate agency must make final disposition of
16 a claim after it is filed to prevent the claim from
17 being deemed denied; revising exceptions relating to
18 instituting actions on claims against the state or one
19 of its agencies and to the statute of limitations for
20 such claims; reenacting ss. 45.061(5), 110.504(4),
21 111.071(1) (a), 163.01(15) (k), 190.043, 213.015(13),
22 252.51, 252.89, 252.944, 260.0125(2), 284.31, 284.38,
23 322.13(1) (b), 337.19(1), 341.302(17), 373.1395(6),
24 375.251(3) (a), 381.0056(9), 393.075(3),
25 395.1055(10) (g), 403.706(17) (c), 409.993(1), (2) (a),

26 and (3) (a), 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), 723.0611(2) (c), 760.11(5), 766.1115(5),
 30 766.112(2), 768.1355(3), 768.295(4), 944.713(2),
 31 946.5026, 946.514(3), 961.06(5), (6), and (7),
 32 1002.33(12) (h), 1002.333(6) (b), 1002.34(17),
 33 1002.55(3) (1), 1002.83(10), 1002.88(1) (p), 1006.24(1),
 34 and 1006.261(2) (b), F.S., to incorporate the
 35 amendments made to s. 768.28, F.S., in references
 36 thereto; providing an effective date.

37

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

39

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

43 768.28 Waiver of sovereign immunity in tort actions;
 44 recovery limits; civil liability for damages caused during a
 45 riot; limitation on attorney fees; statute of limitations;
 46 exclusions; indemnification; risk management programs.—

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

51 period before judgment. Neither the state nor its agencies or
52 subdivisions shall be liable to pay a claim or a judgment by any
53 one person which exceeds the sum of \$1 million ~~\$200,000 or any~~
54 ~~claim or judgment, or portions thereof, which, when totaled with~~
55 ~~all other claims or judgments paid by the state or its agencies~~
56 ~~or subdivisions arising out of the same incident or occurrence,~~
57 ~~exceeds the sum of \$300,000.~~ However, a judgment or judgments
58 may be claimed and rendered in excess of this amount ~~these~~
59 ~~amounts and may be settled and paid pursuant to this act up to~~
60 \$1 million per person, ~~\$200,000 or \$300,000, as the case may be;~~
61 and that portion of the judgment that exceeds this amount ~~these~~
62 ~~amounts~~ may be reported to the Legislature, and ~~but~~ may be paid
63 in part or in whole ~~only~~ by further act of the Legislature.

64 (b) Notwithstanding the limited waiver of sovereign
65 immunity provided in paragraph (a) herein, the state or an
66 agency or subdivision thereof may agree, ~~within the limits of~~
67 ~~insurance coverage provided,~~ to settle a claim made or a
68 judgment rendered against it in excess of the waiver provided in
69 paragraph (a) without further action by the Legislature, but the
70 state or agency or subdivision thereof shall not be deemed to
71 have waived any defense of sovereign immunity or to have
72 increased the limits of its liability as a result of its
73 obtaining insurance coverage for tortious acts in excess of the
74 ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a) above. An
75 insurance policy may not condition the payment of benefits, in

76 whole or in part, on the enactment of a claim bill.

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

81 (d) When determining liability limits for a claim, the
82 limitations of liability in effect on the date a final judgment
83 is entered shall apply to the claim.

84 (e) Beginning July 1, 2023, and every July 1 thereafter,
85 the Department of Financial Services shall adjust the
86 limitations of liability in this subsection to reflect changes
87 in the Consumer Price Index for the Southeast or a successor
88 index as calculated by the United States Department of Labor.

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

101 (6) (a) An action may not be instituted on a claim against
 102 the state or one of its agencies or subdivisions unless the
 103 claimant presents the claim in writing to the appropriate
 104 agency, and also, except as to any claim against a municipality,
 105 county, or the Florida Space Authority, presents such claim in
 106 writing to the Department of Financial Services, within 3 years
 107 after such claim accrues and the Department of Financial
 108 Services or the appropriate agency denies the claim in writing;
 109 except that, if:

110 1. Such claim is for contribution pursuant to s. 768.31,
 111 it must be so presented within 6 months after the judgment
 112 against the tortfeasor seeking contribution has become final by
 113 lapse of time for appeal or after appellate review or, if there
 114 is no such judgment, within 6 months after the tortfeasor
 115 seeking contribution has either discharged the common liability
 116 by payment or agreed, while the action is pending against her or
 117 him, to discharge the common liability; ~~or~~

118 2. Such action is for wrongful death, the claimant must
 119 present the claim in writing to the Department of Financial
 120 Services within 2 years after the claim accrues; or

121 3. Such action arises from a violation of s. 794.011
 122 involving a victim who was younger than the age of 16 at the
 123 time of the act, the claimant may present the claim in writing
 124 at any time pursuant to s. 95.11(9).

125 (d) For purposes of this section, complete, accurate, and

126 | timely compliance with the requirements of paragraph (c) shall
127 | occur prior to settlement payment, close of discovery or
128 | commencement of trial, whichever is sooner; provided the ability
129 | to plead setoff is not precluded by the delay. This setoff shall
130 | apply only against that part of the settlement or judgment
131 | payable to the claimant, minus claimant's reasonable attorney's
132 | fees and costs. Incomplete or inaccurate disclosure of unpaid
133 | adjudicated claims due the state, its agency, officer, or
134 | subdivision, may be excused by the court upon a showing by the
135 | preponderance of the evidence of the claimant's lack of
136 | knowledge of an adjudicated claim and reasonable inquiry by, or
137 | on behalf of, the claimant to obtain the information from public
138 | records. Unless the appropriate agency had actual notice of the
139 | information required to be disclosed by paragraph (c) in time to
140 | assert a setoff, an unexcused failure to disclose shall, upon
141 | hearing and order of court, cause the claimant to be liable for
142 | double the original undisclosed judgment and, upon further
143 | motion, the court shall enter judgment for the agency in that
144 | amount. Except as provided otherwise in this subsection, the
145 | failure of the Department of Financial Services or the
146 | appropriate agency to make final disposition of a claim within 3
147 | ~~6~~ months after it is filed shall be deemed a final denial of the
148 | claim for purposes of this section. For purposes of this
149 | subsection, in medical malpractice actions and in wrongful death
150 | actions, the failure of the Department of Financial Services or

151 the appropriate agency to make final disposition of a claim
 152 within 90 days after it is filed shall be deemed a final denial
 153 of the claim. The statute of limitations for medical malpractice
 154 actions and wrongful death actions is tolled for the period of
 155 time taken by the Department of Financial Services or the
 156 appropriate agency to deny the claim. The provisions of this
 157 subsection do not apply to such claims as may be asserted by
 158 counterclaim pursuant to s. 768.14.

159 (14) Every claim against the state or one of its agencies
 160 or subdivisions for damages for a negligent or wrongful act or
 161 omission pursuant to this section shall be forever barred unless
 162 the civil action is commenced by filing a complaint in the court
 163 of appropriate jurisdiction within 4 years after such claim
 164 accrues; except that:

165 (a) An action for contribution must be commenced within
 166 the limitations provided in s. 768.31(4); ~~and~~

167 (b) An action for damages arising from medical malpractice
 168 or wrongful death must be commenced within the limitations for
 169 such actions in s. 95.11(4); and

170 (c) An action arising from acts constituting a violation
 171 of s. 794.011 involving a victim who was younger than the age of
 172 16 at the time of the act may be commenced at any time pursuant
 173 to s. 95.11(9).

174 Section 2. For the purpose of incorporating the amendment
 175 made by this act to section 768.28, Florida Statutes, in a

176 reference thereto, subsection (5) of section 45.061, Florida
 177 Statutes, is reenacted to read:

178 45.061 Offers of settlement.—

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

184 Section 3. For the purpose of incorporating the amendment
 185 made by this act to section 768.28, Florida Statutes, in a
 186 reference thereto, subsection (4) of section 110.504, Florida
 187 Statutes, is reenacted to read:

188 110.504 Volunteer benefits.—

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

192 Section 4. For the purpose of incorporating the amendment
 193 made by this act to section 768.28, Florida Statutes, in a
 194 reference thereto, paragraph (a) of subsection (1) of section
 195 111.071, Florida Statutes, is reenacted to read:

196 111.071 Payment of judgments or settlements against
 197 certain public officers or employees.—

198 (1) Any county, municipality, political subdivision, or
 199 agency of the state which has been excluded from participation
 200 in the Insurance Risk Management Trust Fund is authorized to

201 expend available funds to pay:

202 (a) Any final judgment, including damages, costs, and
 203 attorney's fees, arising from a complaint for damages or injury
 204 suffered as a result of any act or omission of action of any
 205 officer, employee, or agent in a civil or civil rights lawsuit
 206 described in s. 111.07. If the civil action arises under s.
 207 768.28 as a tort claim, the limitations and provisions of s.
 208 768.28 governing payment shall apply. If the action is a civil
 209 rights action arising under 42 U.S.C. s. 1983, or similar
 210 federal statutes, payments for the full amount of the judgment
 211 may be made unless the officer, employee, or agent has been
 212 determined in the final judgment to have caused the harm
 213 intentionally.

214 Section 5. For the purpose of incorporating the amendment
 215 made by this act to section 768.28, Florida Statutes, in a
 216 reference thereto, paragraph (k) of subsection (15) of section
 217 163.01, Florida Statutes, is reenacted to read:

218 163.01 Florida Interlocal Cooperation Act of 1969.—

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

226 | all of the following powers:

227 | (k) The limitations on waiver in the provisions of s.
 228 | 768.28 or any other law to the contrary notwithstanding, the
 229 | Legislature, in accordance with s. 13, Art. X of the State
 230 | Constitution, hereby declares that any such legal entity or any
 231 | public agency of this state that participates in any electric
 232 | project waives its sovereign immunity to:

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

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

- 240 | b. The supplying or purchasing of services, output,
 241 | capacity, energy, or any combination thereof.

242 | Section 6. For the purpose of incorporating the amendment
 243 | made by this act to section 768.28, Florida Statutes, in a
 244 | reference thereto, section 190.043, Florida Statutes, is
 245 | reenacted to read:

246 | 190.043 Suits against the district.—Any suit or action
 247 | brought or maintained against the district for damages arising
 248 | out of tort, including, without limitation, any claim arising
 249 | upon account of an act causing an injury or loss of property,
 250 | personal injury, or death, shall be subject to the limitations

251 provided in s. 768.28.

252 Section 7. For the purpose of incorporating the amendment
253 made by this act to section 768.28, Florida Statutes, in a
254 reference thereto, subsection (13) of section 213.015, Florida
255 Statutes, is reenacted to read:

256 213.015 Taxpayer rights.—There is created a Florida
257 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
258 and property of Florida taxpayers are adequately safeguarded and
259 protected during tax assessment, collection, and enforcement
260 processes administered under the revenue laws of this state. The
261 Taxpayer's Bill of Rights compiles, in one document, brief but
262 comprehensive statements which explain, in simple, nontechnical
263 terms, the rights and obligations of the Department of Revenue
264 and taxpayers. Section 192.0105 provides additional rights
265 afforded to payors of property taxes and assessments. The rights
266 afforded taxpayers to ensure that their privacy and property are
267 safeguarded and protected during tax assessment and collection
268 are available only insofar as they are implemented in other
269 parts of the Florida Statutes or rules of the Department of
270 Revenue. The rights so guaranteed Florida taxpayers in the
271 Florida Statutes and the departmental rules are:

272 (13) The right to an action at law within the limitations
273 of s. 768.28, relating to sovereign immunity, to recover damages
274 against the state or the Department of Revenue for injury caused
275 by the wrongful or negligent act or omission of a department

276 officer or employee (see s. 768.28).

277 Section 8. For the purpose of incorporating the amendment
278 made by this act to section 768.28, Florida Statutes, in a
279 reference thereto, section 252.51, Florida Statutes, is
280 reenacted to read:

281 252.51 Liability.—Any person or organization, public or
282 private, owning or controlling real estate or other premises who
283 voluntarily and without compensation, other than payment or
284 reimbursement of costs and expenses, grants a license or
285 privilege or otherwise permits the designation by the local
286 emergency management agency or use of the whole or any part of
287 such real estate or premises for the purpose of sheltering
288 persons during an actual, impending, mock, or practice
289 emergency, together with her or his successor in interest, if
290 any, shall not be liable for the death of, or injury to, any
291 person on or about such real estate or premises during the
292 actual, impending, mock, or practice emergency, or for loss of,
293 or damage to, the property of such person, solely by reason or
294 as a result of such license, privilege, designation, or use,
295 unless the gross negligence or the willful and wanton misconduct
296 of such person owning or controlling such real estate or
297 premises or her or his successor in interest is the proximate
298 cause of such death, injury, loss, or damage occurring during
299 such sheltering period. Any such person or organization who
300 provides such shelter space for compensation shall be deemed to

301 | be an instrumentality of the state or its applicable agency or
 302 | subdivision for the purposes of s. 768.28.

303 | Section 9. For the purpose of incorporating the amendment
 304 | made by this act to section 768.28, Florida Statutes, in a
 305 | reference thereto, section 252.89, Florida Statutes, is
 306 | reenacted to read:

307 | 252.89 Tort liability.—The commission and the committees
 308 | shall be state agencies, and the members of the commission and
 309 | committees shall be officers, employees, or agents of the state
 310 | for the purposes of s. 768.28.

311 | Section 10. For the purpose of incorporating the amendment
 312 | made by this act to section 768.28, Florida Statutes, in a
 313 | reference thereto, section 252.944, Florida Statutes, is
 314 | reenacted to read:

315 | 252.944 Tort liability.—The commission and the committees
 316 | are state agencies, and the members of the commission and
 317 | committees are officers, employees, or agents of the state for
 318 | the purpose of s. 768.28.

319 | Section 11. For the purpose of incorporating the amendment
 320 | made by this act to section 768.28, Florida Statutes, in a
 321 | reference thereto, subsection (2) of section 260.0125, Florida
 322 | Statutes, is reenacted to read:

323 | 260.0125 Limitation on liability of private landowners
 324 | whose property is designated as part of the statewide system of
 325 | greenways and trails.—

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

332 Section 12. For the purpose of incorporating the amendment
 333 made by this act to section 768.28, Florida Statutes, in a
 334 reference thereto, section 284.31, Florida Statutes, is
 335 reenacted to read:

336 284.31 Scope and types of coverages; separate accounts.—
 337 The Insurance Risk Management Trust Fund must, unless
 338 specifically excluded by the Department of Financial Services,
 339 cover all departments of the State of Florida and their
 340 employees, agents, and volunteers and must provide separate
 341 accounts for workers' compensation, general liability, fleet
 342 automotive liability, federal civil rights actions under 42
 343 U.S.C. s. 1983 or similar federal statutes, state agency
 344 firefighter cancer benefits payable under s. 112.1816(2), and
 345 court-awarded attorney fees in other proceedings against the
 346 state except for such awards in eminent domain or for inverse
 347 condemnation or for awards by the Public Employees Relations
 348 Commission. Unless specifically excluded by the Department of
 349 Financial Services, the Insurance Risk Management Trust Fund
 350 must provide fleet automotive liability coverage to motor

351 vehicles titled to the state, or to any department of the state,
352 when such motor vehicles are used by community transportation
353 coordinators performing, under contract to the appropriate
354 department of the state, services for the transportation
355 disadvantaged under part I of chapter 427. Such fleet automotive
356 liability coverage is primary and is subject to s. 768.28 and
357 parts II and III of chapter 284, and applicable rules adopted
358 thereunder, and the terms and conditions of the certificate of
359 coverage issued by the Department of Financial Services.

360 Section 13. For the purpose of incorporating the amendment
361 made by this act to section 768.28, Florida Statutes, in a
362 reference thereto, section 284.38, Florida Statutes, is
363 reenacted to read:

364 284.38 Waiver of sovereign immunity; effect.—The insurance
365 programs developed herein shall provide limits as established by
366 the provisions of s. 768.28 if a tort claim. The limits provided
367 in s. 768.28 shall not apply to a civil rights action arising
368 under 42 U.S.C. s. 1983 or similar federal statute. Payment of a
369 pending or future claim or judgment arising under any of said
370 statutes may be made upon this act becoming a law, unless the
371 officer, employee, or agent has been determined in the final
372 judgment to have caused the harm intentionally; however, the
373 fund is authorized to pay all other court-ordered attorney's
374 fees as provided under s. 284.31.

375 Section 14. For the purpose of incorporating the amendment

376 made by this act to section 768.28, Florida Statutes, in a
 377 reference thereto, paragraph (b) of subsection (1) of section
 378 322.13, Florida Statutes, is reenacted to read:

379 322.13 Driver license examiners.—

380 (1)

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

384 Section 15. For the purpose of incorporating the amendment
 385 made by this act to section 768.28, Florida Statutes, in a
 386 reference thereto, subsection (1) of section 337.19, Florida
 387 Statutes, is reenacted to read:

388 337.19 Suits by and against department; limitation of
 389 actions; forum.—

390 (1) Suits at law and in equity may be brought and
 391 maintained by and against the department on any contract claim
 392 arising from breach of an express provision or an implied
 393 covenant of a written agreement or a written directive issued by
 394 the department pursuant to the written agreement. In any such
 395 suit, the department and the contractor shall have all of the
 396 same rights and obligations as a private person under a like
 397 contract except that no liability may be based on an oral
 398 modification of either the written contract or written
 399 directive. Nothing herein shall be construed to waive the
 400 sovereign immunity of the state and its political subdivisions

401 from equitable claims and equitable remedies. Notwithstanding
402 anything to the contrary contained in this section, no employee
403 or agent of the department may be held personally liable to an
404 extent greater than that pursuant to s. 768.28 provided that no
405 suit sounding in tort shall be maintained against the
406 department.

407 Section 16. For the purpose of incorporating the amendment
408 made by this act to section 768.28, Florida Statutes, in a
409 reference thereto, subsection (17) of section 341.302, Florida
410 Statutes, is reenacted to read:

411 341.302 Rail program; duties and responsibilities of the
412 department.—The department, in conjunction with other
413 governmental entities, including the rail enterprise and the
414 private sector, shall develop and implement a rail program of
415 statewide application designed to ensure the proper maintenance,
416 safety, revitalization, and expansion of the rail system to
417 assure its continued and increased availability to respond to
418 statewide mobility needs. Within the resources provided pursuant
419 to chapter 216, and as authorized under federal law, the
420 department shall:

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

424 (a) Assume obligations pursuant to the following:

425 1.a. The department may assume the obligation by contract

426 to forever protect, defend, indemnify, and hold harmless the
427 freight rail operator, or its successors, from whom the
428 department has acquired a real property interest in the rail
429 corridor, and that freight rail operator's officers, agents, and
430 employees, from and against any liability, cost, and expense,
431 including, but not limited to, commuter rail passengers and rail
432 corridor invitees in the rail corridor, regardless of whether
433 the loss, damage, destruction, injury, or death giving rise to
434 any such liability, cost, or expense is caused in whole or in
435 part, and to whatever nature or degree, by the fault, failure,
436 negligence, misconduct, nonfeasance, or misfeasance of such
437 freight rail operator, its successors, or its officers, agents,
438 and employees, or any other person or persons whomsoever; or

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

451 agents, and employees, or any other person or persons
452 whomsoever.

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

457 a. The department may be solely responsible for any loss,
458 injury, or damage to commuter rail passengers, or rail corridor
459 invitees, or trespassers, regardless of circumstances or cause,
460 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and
461 6.

462 b.(I) In the event of a limited covered accident, the
463 authority of the department to protect, defend, and indemnify
464 the freight operator for all liability, cost, and expense,
465 including punitive or exemplary damages, in excess of the
466 deductible or self-insurance retention fund established under
467 paragraph (b) and actually in force at the time of the limited
468 covered accident exists only if the freight operator agrees,
469 with respect to the limited covered accident, to protect,
470 defend, and indemnify the department for the amount of the
471 deductible or self-insurance retention fund established under
472 paragraph (b) and actually in force at the time of the limited
473 covered accident.

474 (II) In the event of a limited covered accident, the
475 authority of the department to protect, defend, and indemnify

476 National Railroad Passenger Corporation for all liability, cost,
477 and expense, including punitive or exemplary damages, in excess
478 of the deductible or self-insurance retention fund established
479 under paragraph (b) and actually in force at the time of the
480 limited covered accident exists only if National Railroad
481 Passenger Corporation agrees, with respect to the limited
482 covered accident, to protect, defend, and indemnify the
483 department for the amount of the deductible or self-insurance
484 retention fund established under paragraph (b) and actually in
485 force at the time of the limited covered accident.

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

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

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

501 4. For the purposes of this subsection:
 502 a. Any train involved in an incident that is neither the
 503 department's train nor the freight rail operator's train,
 504 hereinafter referred to in this subsection as an "other train,"
 505 may be treated as a department train, solely for purposes of any
 506 allocation of liability between the department and the freight
 507 rail operator only, but only if the department and the freight
 508 rail operator share responsibility equally as to third parties
 509 outside the rail corridor who incur loss, injury, or damage as a
 510 result of any incident involving both a department train and a
 511 freight rail operator train, and the allocation as between the
 512 department and the freight rail operator, regardless of whether
 513 the other train is treated as a department train, shall remain
 514 one-half each as to third parties outside the rail corridor who
 515 incur loss, injury, or damage as a result of the incident. The
 516 involvement of any other train shall not alter the sharing of
 517 equal responsibility as to third parties outside the rail
 518 corridor who incur loss, injury, or damage as a result of the
 519 incident; or
 520 b. Any train involved in an incident that is neither the
 521 department's train nor the National Railroad Passenger
 522 Corporation's train, hereinafter referred to in this subsection
 523 as an "other train," may be treated as a department train,
 524 solely for purposes of any allocation of liability between the
 525 department and National Railroad Passenger Corporation only, but

526 only if the department and National Railroad Passenger
527 Corporation share responsibility equally as to third parties
528 outside the rail corridor who incur loss, injury, or damage as a
529 result of any incident involving both a department train and a
530 National Railroad Passenger Corporation train, and the
531 allocation as between the department and National Railroad
532 Passenger Corporation, regardless of whether the other train is
533 treated as a department train, shall remain one-half each as to
534 third parties outside the rail corridor who incur loss, injury,
535 or damage as a result of the incident. The involvement of any
536 other train shall not alter the sharing of equal responsibility
537 as to third parties outside the rail corridor who incur loss,
538 injury, or damage as a result of the incident.

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

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

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

564 b.(I) If a department train, a freight rail operator
565 train, and any other train are involved in an incident, the
566 allocation of liability between the department and the freight
567 rail operator, regardless of whether the other train is treated
568 as a department train, shall remain one-half each as to third
569 parties outside the rail corridor who incur loss, injury, or
570 damage as a result of the incident; the involvement of any other
571 train shall not alter the sharing of equal responsibility as to
572 third parties outside the rail corridor who incur loss, injury,
573 or damage as a result of the incident; and, if the owner,
574 operator, or insurer of the other train makes any payment to
575 injured third parties outside the rail corridor who incur loss,

576 injury, or damage as a result of the incident, the allocation of
577 credit between the department and the freight rail operator as
578 to such payment shall not in any case reduce the freight rail
579 operator's third-party-sharing allocation of one-half under this
580 paragraph to less than one-third of the total third party
581 liability; or

582 (II) If a department train, a National Railroad Passenger
583 Corporation train, and any other train are involved in an
584 incident, the allocation of liability between the department and
585 National Railroad Passenger Corporation, regardless of whether
586 the other train is treated as a department train, shall remain
587 one-half each as to third parties outside the rail corridor who
588 incur loss, injury, or damage as a result of the incident; the
589 involvement of any other train shall not alter the sharing of
590 equal responsibility as to third parties outside the rail
591 corridor who incur loss, injury, or damage as a result of the
592 incident; and, if the owner, operator, or insurer of the other
593 train makes any payment to injured third parties outside the
594 rail corridor who incur loss, injury, or damage as a result of
595 the incident, the allocation of credit between the department
596 and National Railroad Passenger Corporation as to such payment
597 shall not in any case reduce National Railroad Passenger
598 Corporation's third-party-sharing allocation of one-half under
599 this sub-subparagraph to less than one-third of the total third
600 party liability.

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

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

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

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

624 (b) Purchase liability insurance, which amount shall not
625 exceed \$200 million, and establish a self-insurance retention

626 fund for the purpose of paying the deductible limit established
627 in the insurance policies it may obtain, including coverage for
628 the department, any freight rail operator as described in
629 paragraph (a), National Railroad Passenger Corporation, commuter
630 rail service providers, governmental entities, or any ancillary
631 development, which self-insurance retention fund or deductible
632 shall not exceed \$10 million. The insureds shall pay a
633 reasonable monetary contribution to the cost of such liability
634 coverage for the sole benefit of the insured. Such insurance and
635 self-insurance retention fund may provide coverage for all
636 damages, including, but not limited to, compensatory, special,
637 and exemplary, and be maintained to provide an adequate fund to
638 cover claims and liabilities for loss, injury, or damage arising
639 out of or connected with the ownership, operation, maintenance,
640 and management of a rail corridor.

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

643 (d) Without altering any of the rights granted to the
644 department under this section, agree to assume the obligations
645 to indemnify and insure, pursuant to s. 343.545, freight rail
646 service, intercity passenger rail service, and commuter rail
647 service on a department-owned rail corridor, whether ownership
648 is in fee or by easement, or on a rail corridor where the
649 department has the right to operate.

650

651 Neither the assumption by contract to protect, defend,
652 indemnify, and hold harmless; the purchase of insurance; nor the
653 establishment of a self-insurance retention fund shall be deemed
654 to be a waiver of any defense of sovereign immunity for torts
655 nor deemed to increase the limits of the department's or the
656 governmental entity's liability for torts as provided in s.
657 768.28. The requirements of s. 287.022(1) shall not apply to the
658 purchase of any insurance under this subsection. The provisions
659 of this subsection shall apply and inure fully as to any other
660 governmental entity providing commuter rail service and
661 constructing, operating, maintaining, or managing a rail
662 corridor on publicly owned right-of-way under contract by the
663 governmental entity with the department or a governmental entity
664 designated by the department. Notwithstanding any law to the
665 contrary, procurement for the construction, operation,
666 maintenance, and management of any rail corridor described in
667 this subsection, whether by the department, a governmental
668 entity under contract with the department, or a governmental
669 entity designated by the department, shall be pursuant to s.
670 287.057 and shall include, but not be limited to, criteria for
671 the consideration of qualifications, technical aspects of the
672 proposal, and price. Further, any such contract for design-build
673 shall be procured pursuant to the criteria in s. 337.11(7).

674 Section 17. For the purpose of incorporating the amendment
675 made by this act to section 768.28, Florida Statutes, in a

676 reference thereto, subsection (6) of section 373.1395, Florida
 677 Statutes, is reenacted to read:

678 373.1395 Limitation on liability of water management
 679 district with respect to areas made available to the public for
 680 recreational purposes without charge.—

681 (6) This section does not relieve any water management
 682 district of any liability that would otherwise exist for gross
 683 negligence or a deliberate, willful, or malicious injury to a
 684 person or property. This section does not create or increase the
 685 liability of any water management district or person beyond that
 686 which is authorized by s. 768.28.

687 Section 18. For the purpose of incorporating the amendment
 688 made by this act to section 768.28, Florida Statutes, in a
 689 reference thereto, paragraph (a) of subsection (3) of section
 690 375.251, Florida Statutes, is reenacted to read:

691 375.251 Limitation on liability of persons making
 692 available to public certain areas for recreational purposes
 693 without charge.—

694 (3)(a) An owner of an area who enters into a written
 695 agreement concerning the area with a state agency for outdoor
 696 recreational purposes, where such agreement recognizes that the
 697 state agency is responsible for personal injury, loss, or damage
 698 resulting in whole or in part from the state agency's use of the
 699 area under the terms of the agreement subject to the limitations
 700 and conditions specified in s. 768.28, owes no duty of care to

701 keep the area safe for entry or use by others, or to give
 702 warning to persons entering or going on the area of any
 703 hazardous conditions, structures, or activities thereon. An
 704 owner who enters into a written agreement concerning the area
 705 with a state agency for outdoor recreational purposes:

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

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

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

713 Section 19. For the purpose of incorporating the amendment
 714 made by this act to section 768.28, Florida Statutes, in a
 715 reference thereto, subsection (9) of section 381.0056, Florida
 716 Statutes, is reenacted to read:

717 381.0056 School health services program.—

718 (9) Any health care entity that provides school health
 719 services under contract with the department pursuant to a school
 720 health services plan developed under this section, and as part
 721 of a school nurse services public-private partnership, is deemed
 722 to be a corporation acting primarily as an instrumentality of
 723 the state solely for the purpose of limiting liability pursuant
 724 to s. 768.28(5). The limitations on tort actions contained in s.
 725 768.28(5) shall apply to any action against the entity with

726 respect to the provision of school health services, if the
727 entity is acting within the scope of and pursuant to guidelines
728 established in the contract or by rule of the department. The
729 contract must require the entity, or the partnership on behalf
730 of the entity, to obtain general liability insurance coverage,
731 with any additional endorsement necessary to insure the entity
732 for liability assumed by its contract with the department. The
733 Legislature intends that insurance be purchased by entities, or
734 by partnerships on behalf of the entity, to cover all liability
735 claims, and under no circumstances shall the state or the
736 department be responsible for payment of any claims or defense
737 costs for claims brought against the entity or its subcontractor
738 for services performed under the contract with the department.
739 This subsection does not preclude consideration by the
740 Legislature for payment by the state of any claims bill
741 involving an entity contracting with the department pursuant to
742 this section.

743 Section 20. For the purpose of incorporating the amendment
744 made by this act to section 768.28, Florida Statutes, in a
745 reference thereto, subsection (3) of section 393.075, Florida
746 Statutes, is reenacted to read:

747 393.075 General liability coverage.—

748 (3) This section shall not be construed as designating or
749 not designating that a person who owns or operates a foster care
750 facility or group home facility as described in this section or

751 any other person is an employee or agent of the state. Nothing
 752 in this section amends, expands, or supersedes the provisions of
 753 s. 768.28.

754 Section 21. For the purpose of incorporating the amendment
 755 made by this act to section 768.28, Florida Statutes, in a
 756 reference thereto, paragraph (g) of subsection (10) of section
 757 395.1055, Florida Statutes, is reenacted to read:

758 395.1055 Rules and enforcement.—

759 (10) The agency shall establish a pediatric cardiac
 760 technical advisory panel, pursuant to s. 20.052, to develop
 761 procedures and standards for measuring outcomes of pediatric
 762 cardiac catheterization programs and pediatric cardiovascular
 763 surgery programs.

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

767 Section 22. For the purpose of incorporating the amendment
 768 made by this act to section 768.28, Florida Statutes, in a
 769 reference thereto, paragraph (c) of subsection (17) of section
 770 403.706, Florida Statutes, is reenacted to read:

771 403.706 Local government solid waste responsibilities.—

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

775 (c) To waive sovereign immunity and immunity from suit in

776 federal court by vote of the governing body of the county or
 777 municipality to the extent necessary to carry out the authority
 778 granted in paragraphs (a) and (b), notwithstanding the
 779 limitations prescribed in s. 768.28.

780 Section 23. For the purpose of incorporating the amendment
 781 made by this act to section 768.28, Florida Statutes, in a
 782 reference thereto, subsection (1), paragraph (a) of subsection
 783 (2), and paragraph (a) of subsection (3) of section 409.993,
 784 Florida Statutes, are reenacted to read:

785 409.993 Lead agencies and subcontractor liability.—

786 (1) FINDINGS.—

787 (a) The Legislature finds that the state has traditionally
 788 provided foster care services to children who are the
 789 responsibility of the state. As such, foster children have not
 790 had the right to recover for injuries beyond the limitations
 791 specified in s. 768.28. The Legislature has determined that
 792 foster care and related services should be outsourced pursuant
 793 to this section and that the provision of such services is of
 794 paramount importance to the state. The purpose of such
 795 outsourcing is to increase the level of safety, security, and
 796 stability of children who are or become the responsibility of
 797 the state. One of the components necessary to secure a safe and
 798 stable environment for such children is the requirement that
 799 private providers maintain liability insurance. As such,
 800 insurance needs to be available and remain available to

801 nongovernmental foster care and related services providers
802 without the resources of such providers being significantly
803 reduced by the cost of maintaining such insurance.

804 (b) The Legislature further finds that, by requiring the
805 following minimum levels of insurance, children in outsourced
806 foster care and related services will gain increased protection
807 and rights of recovery in the event of injury than currently
808 provided in s. 768.28.

809 (2) LEAD AGENCY LIABILITY.—

810 (a) Other than an entity to which s. 768.28 applies, an
811 eligible community-based care lead agency, or its employees or
812 officers, except as otherwise provided in paragraph (b), shall,
813 as a part of its contract, obtain a minimum of \$1 million per
814 occurrence with a policy period aggregate limit of \$3 million in
815 general liability insurance coverage. The lead agency must also
816 require that staff who transport client children and families in
817 their personal automobiles in order to carry out their job
818 responsibilities obtain minimum bodily injury liability
819 insurance in the amount of \$100,000 per person per any one
820 automobile accident, and subject to such limits for each person,
821 \$300,000 for all damages resulting from any one automobile
822 accident, on their personal automobiles. In lieu of personal
823 motor vehicle insurance, the lead agency's casualty, liability,
824 or motor vehicle insurance carrier may provide nonowned
825 automobile liability coverage. This insurance provides liability

826 insurance for an automobile that the lead agency uses in
827 connection with the lead agency's business but does not own,
828 lease, rent, or borrow. This coverage includes an automobile
829 owned by an employee of the lead agency or a member of the
830 employee's household but only while the automobile is used in
831 connection with the lead agency's business. The nonowned
832 automobile coverage for the lead agency applies as excess
833 coverage over any other collectible insurance. The personal
834 automobile policy for the employee of the lead agency shall be
835 primary insurance, and the nonowned automobile coverage of the
836 lead agency acts as excess insurance to the primary insurance.
837 The lead agency shall provide a minimum limit of \$1 million in
838 nonowned automobile coverage. In a tort action brought against
839 such a lead agency or employee, net economic damages shall be
840 limited to \$2 million per liability claim and \$200,000 per
841 automobile claim, including, but not limited to, past and future
842 medical expenses, wage loss, and loss of earning capacity,
843 offset by any collateral source payment paid or payable. In any
844 tort action brought against a lead agency, noneconomic damages
845 shall be limited to \$400,000 per claim. A claims bill may be
846 brought on behalf of a claimant pursuant to s. 768.28 for any
847 amount exceeding the limits specified in this paragraph. Any
848 offset of collateral source payments made as of the date of the
849 settlement or judgment shall be in accordance with s. 768.76.
850 The lead agency is not liable in tort for the acts or omissions

851 of its subcontractors or the officers, agents, or employees of
852 its subcontractors.

853 (3) SUBCONTRACTOR LIABILITY.—

854 (a) A subcontractor of an eligible community-based care
855 lead agency that is a direct provider of foster care and related
856 services to children and families, and its employees or
857 officers, except as otherwise provided in paragraph (b), must,
858 as a part of its contract, obtain a minimum of \$1 million per
859 occurrence with a policy period aggregate limit of \$3 million in
860 general liability insurance coverage. The subcontractor of a
861 lead agency must also require that staff who transport client
862 children and families in their personal automobiles in order to
863 carry out their job responsibilities obtain minimum bodily
864 injury liability insurance in the amount of \$100,000 per person
865 in any one automobile accident, and subject to such limits for
866 each person, \$300,000 for all damages resulting from any one
867 automobile accident, on their personal automobiles. In lieu of
868 personal motor vehicle insurance, the subcontractor's casualty,
869 liability, or motor vehicle insurance carrier may provide
870 nonowned automobile liability coverage. This insurance provides
871 liability insurance for automobiles that the subcontractor uses
872 in connection with the subcontractor's business but does not
873 own, lease, rent, or borrow. This coverage includes automobiles
874 owned by the employees of the subcontractor or a member of the
875 employee's household but only while the automobiles are used in

876 connection with the subcontractor's business. The nonowned
 877 automobile coverage for the subcontractor applies as excess
 878 coverage over any other collectible insurance. The personal
 879 automobile policy for the employee of the subcontractor shall be
 880 primary insurance, and the nonowned automobile coverage of the
 881 subcontractor acts as excess insurance to the primary insurance.
 882 The subcontractor shall provide a minimum limit of \$1 million in
 883 nonowned automobile coverage. In a tort action brought against
 884 such subcontractor or employee, net economic damages shall be
 885 limited to \$2 million per liability claim and \$200,000 per
 886 automobile claim, including, but not limited to, past and future
 887 medical expenses, wage loss, and loss of earning capacity,
 888 offset by any collateral source payment paid or payable. In a
 889 tort action brought against such subcontractor, noneconomic
 890 damages shall be limited to \$400,000 per claim. A claims bill
 891 may be brought on behalf of a claimant pursuant to s. 768.28 for
 892 any amount exceeding the limits specified in this paragraph. Any
 893 offset of collateral source payments made as of the date of the
 894 settlement or judgment shall be in accordance with s. 768.76.

895 Section 24. For the purpose of incorporating the amendment
 896 made by this act to section 768.28, Florida Statutes, in a
 897 reference thereto, subsection (3) of section 455.221, Florida
 898 Statutes, is reenacted to read:

899 455.221 Legal and investigative services.—

900 (3) Any person retained by the department under contract

901 to review materials, make site visits, or provide expert
902 testimony regarding any complaint or application filed with the
903 department relating to a profession under the jurisdiction of
904 the department shall be considered an agent of the department in
905 determining the state insurance coverage and sovereign immunity
906 protection applicability of ss. 284.31 and 768.28.

907 Section 25. For the purpose of incorporating the amendment
908 made by this act to section 768.28, Florida Statutes, in a
909 reference thereto, subsection (5) of section 455.32, Florida
910 Statutes, is reenacted to read:

911 455.32 Management Privatization Act.—

912 (5) Any such corporation may hire staff as necessary to
913 carry out its functions. Such staff are not public employees for
914 the purposes of chapter 110 or chapter 112, except that the
915 board of directors and the employees of the corporation are
916 subject to the provisions of s. 112.061 and part III of chapter
917 112. The provisions of s. 768.28 apply to each such corporation,
918 which is deemed to be a corporation primarily acting as an
919 instrumentality of the state but which is not an agency within
920 the meaning of s. 20.03(11).

921 Section 26. For the purpose of incorporating the amendment
922 made by this act to section 768.28, Florida Statutes, in a
923 reference thereto, subsection (3) of section 456.009, Florida
924 Statutes, is reenacted to read:

925 456.009 Legal and investigative services.—

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

933 Section 27. For the purpose of incorporating the amendment
 934 made by this act to section 768.28, Florida Statutes, in a
 935 reference thereto, paragraph (a) of subsection (15) of section
 936 456.076, Florida Statutes, is reenacted to read:

937 456.076 Impaired practitioner programs.—

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

943 Section 28. For the purpose of incorporating the amendment
 944 made by this act to section 768.28, Florida Statutes, in a
 945 reference thereto, subsection (3) of section 471.038, Florida
 946 Statutes, is reenacted to read:

947 471.038 Florida Engineers Management Corporation.—

948 (3) The Florida Engineers Management Corporation is
 949 created to provide administrative, investigative, and
 950 prosecutorial services to the board in accordance with the

951 provisions of chapter 455 and this chapter. The management
952 corporation may hire staff as necessary to carry out its
953 functions. Such staff are not public employees for the purposes
954 of chapter 110 or chapter 112, except that the board of
955 directors and the staff are subject to the provisions of s.
956 112.061. The provisions of s. 768.28 apply to the management
957 corporation, which is deemed to be a corporation primarily
958 acting as an instrumentality of the state, but which is not an
959 agency within the meaning of s. 20.03(11). The management
960 corporation shall:

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

963 (b) Provide administrative, investigative, and
964 prosecutorial services to the board in accordance with the
965 provisions of chapter 455, this chapter, and the contract
966 required by this section.

967 (c) Receive, hold, and administer property and make only
968 prudent expenditures directly related to the responsibilities of
969 the board, and in accordance with the contract required by this
970 section.

971 (d) Be approved by the board, and the department, to
972 operate for the benefit of the board and in the best interest of
973 the state.

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

976 (f) Have a seven-member board of directors, five of whom
 977 are to be appointed by the board and must be registrants
 978 regulated by the board and two of whom are to be appointed by
 979 the secretary and must be laypersons not regulated by the board.
 980 All appointments shall be for 4-year terms. No member shall
 981 serve more than two consecutive terms. Failure to attend three
 982 consecutive meetings shall be deemed a resignation from the
 983 board, and the vacancy shall be filled by a new appointment.

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

987 (h) Select the president of the management corporation,
 988 who shall also serve as executive director to the board, subject
 989 to approval of the board.

990 (i) Use a portion of the interest derived from the
 991 management corporation account to offset the costs associated
 992 with the use of credit cards for payment of fees by applicants
 993 or licensees.

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

997 1. Submission by the management corporation of an annual
 998 budget that complies with board rules for approval by the board
 999 and the department.

1000 2. Annual certification by the board and the department

1001 that the management corporation is complying with the terms of
 1002 the contract in a manner consistent with the goals and purposes
 1003 of the board and in the best interest of the state. This
 1004 certification must be reported in the board's minutes. The
 1005 contract must also provide for methods and mechanisms to resolve
 1006 any situation in which the certification process determines
 1007 noncompliance.

1008 3. Funding of the management corporation through
 1009 appropriations allocated to the regulation of professional
 1010 engineers from the Professional Regulation Trust Fund.

1011 4. The reversion to the board, or the state if the board
 1012 ceases to exist, of moneys, records, data, and property held in
 1013 trust by the management corporation for the benefit of the
 1014 board, if the management corporation is no longer approved to
 1015 operate for the board or the board ceases to exist. All records
 1016 and data in a computerized database shall be returned to the
 1017 department in a form that is compatible with the computerized
 1018 database of the department.

1019 5. The securing and maintaining by the management
 1020 corporation, during the term of the contract and for all acts
 1021 performed during the term of the contract, of all liability
 1022 insurance coverages in an amount to be approved by the board to
 1023 defend, indemnify, and hold harmless the management corporation
 1024 and its officers and employees, the department and its
 1025 employees, and the state against all claims arising from state

1026 and federal laws. Such insurance coverage must be with insurers
1027 qualified and doing business in the state. The management
1028 corporation must provide proof of insurance to the department.
1029 The department and its employees and the state are exempt from
1030 and are not liable for any sum of money which represents a
1031 deductible, which sums shall be the sole responsibility of the
1032 management corporation. Violation of this subparagraph shall be
1033 grounds for terminating the contract.

1034 6. Payment by the management corporation, out of its
1035 allocated budget, to the department of all costs of
1036 representation by the board counsel, including salary and
1037 benefits, travel, and any other compensation traditionally paid
1038 by the department to other board counsel.

1039 7. Payment by the management corporation, out of its
1040 allocated budget, to the department of all costs incurred by the
1041 management corporation or the board for the Division of
1042 Administrative Hearings of the Department of Management Services
1043 and any other cost for utilization of these state services.

1044 8. Payment by the management corporation, out of its
1045 allocated budget, to the department of reasonable costs
1046 associated with the contract monitor.

1047 (k) Provide for an annual financial audit of its financial
1048 accounts and records by an independent certified public
1049 accountant. The annual audit report shall include a management
1050 letter in accordance with s. 11.45 and a detailed supplemental

1051 schedule of expenditures for each expenditure category. The
1052 annual audit report must be submitted to the board, the
1053 department, and the Auditor General for review.

1054 (l) Provide for persons not employed by the corporation
1055 who are charged with the responsibility of receiving and
1056 depositing fee and fine revenues to have a faithful performance
1057 bond in such an amount and according to such terms as shall be
1058 determined in the contract.

1059 (m) Submit to the secretary, the board, and the
1060 Legislature, on or before October 1 of each year, a report on
1061 the status of the corporation which includes, but is not limited
1062 to, information concerning the programs and funds that have been
1063 transferred to the corporation. The report must include: the
1064 number of license applications received; the number approved and
1065 denied and the number of licenses issued; the number of
1066 examinations administered and the number of applicants who
1067 passed or failed the examination; the number of complaints
1068 received; the number determined to be legally sufficient; the
1069 number dismissed; the number determined to have probable cause;
1070 the number of administrative complaints issued and the status of
1071 the complaints; and the number and nature of disciplinary
1072 actions taken by the board.

1073 (n) Develop and submit to the department, performance
1074 standards and measurable outcomes for the board to adopt by rule
1075 in order to facilitate efficient and cost-effective regulation.

1076 Section 29. For the purpose of incorporating the amendment
 1077 made by this act to section 768.28, Florida Statutes, in a
 1078 reference thereto, paragraph (b) of subsection (11) of section
 1079 472.006, Florida Statutes, is reenacted to read:

1080 472.006 Department; powers and duties.—The department
 1081 shall:

1082 (11) Provide legal counsel for the board by contracting
 1083 with the Department of Legal Affairs, by retaining private
 1084 counsel pursuant to s. 287.059, or by providing department staff
 1085 counsel. The board shall periodically review and evaluate the
 1086 services provided by its board counsel. Fees and costs of such
 1087 counsel shall be paid from the General Inspection Trust Fund,
 1088 subject to ss. 215.37 and 472.011. All contracts for independent
 1089 legal counsel must provide for periodic review and evaluation by
 1090 the board and the department of services provided.

1091 (b) Any person retained by the department under contract
 1092 to review materials, make site visits, or provide expert
 1093 testimony regarding any complaint or application filed with the
 1094 department relating to the practice of surveying and mapping
 1095 shall be considered an agent of the department in determining
 1096 the state insurance coverage and sovereign immunity protection
 1097 applicability of ss. 284.31 and 768.28.

1098 Section 30. For the purpose of incorporating the amendment
 1099 made by this act to section 768.28, Florida Statutes, in a
 1100 reference thereto, subsection (7) of section 497.167, Florida

1101 Statutes, is reenacted to read:

1102 497.167 Administrative matters.—

1103 (7) Any person retained by the department under contract
 1104 to review materials, make site visits, or provide expert
 1105 testimony regarding any complaint or application filed with the
 1106 department, relating to regulation under this chapter, shall be
 1107 considered an agent of the department in determining the state
 1108 insurance coverage and sovereign immunity protection
 1109 applicability of ss. 284.31 and 768.28.

1110 Section 31. For the purpose of incorporating the amendment
 1111 made by this act to section 768.28, Florida Statutes, in a
 1112 reference thereto, subsection (2) of section 513.118, Florida
 1113 Statutes, is reenacted to read:

1114 513.118 Conduct on premises; refusal of service.—

1115 (2) The operator of a recreational vehicle park may
 1116 request that a transient guest or visitor who violates
 1117 subsection (1) leave the premises immediately. A person who
 1118 refuses to leave the premises commits the offense of trespass as
 1119 provided in s. 810.08, and the operator may call a law
 1120 enforcement officer to have the person and his or her property
 1121 removed under the supervision of the officer. A law enforcement
 1122 officer is not liable for any claim involving the removal of the
 1123 person or property from the recreational vehicle park under this
 1124 section, except as provided in s. 768.28. If conditions do not
 1125 allow for immediate removal of the person's property, he or she

1126 may arrange a reasonable time, not to exceed 48 hours, with the
1127 operator to come remove the property, accompanied by a law
1128 enforcement officer.

1129 Section 32. For the purpose of incorporating the amendment
1130 made by this act to section 768.28, Florida Statutes, in a
1131 reference thereto, subsection (1) of section 548.046, Florida
1132 Statutes, is reenacted to read:

1133 548.046 Physician's attendance at match; examinations;
1134 cancellation of match.—

1135 (1) The commission, or the commission representative,
1136 shall assign to each match at least one physician who shall
1137 observe the physical condition of the participants and advise
1138 the commissioner or commission representative in charge and the
1139 referee of the participants' conditions before, during, and
1140 after the match. The commission shall establish a schedule of
1141 fees for the physician's services. The physician's fee shall be
1142 paid by the promoter of the match attended by the physician. The
1143 physician shall be considered an agent of the commission in
1144 determining the state insurance coverage and sovereign immunity
1145 protection applicability of ss. 284.31 and 768.28.

1146 Section 33. For the purpose of incorporating the amendment
1147 made by this act to section 768.28, Florida Statutes, in a
1148 reference thereto, subsection (8) of section 556.106, Florida
1149 Statutes, is reenacted to read:

1150 556.106 Liability of the member operator, excavator, and

1151 system.—

1152 (8) Any liability of the state, its agencies, or its
 1153 subdivisions which arises out of this chapter is subject to the
 1154 provisions of s. 768.28.

1155 Section 34. For the purpose of incorporating the amendment
 1156 made by this act to section 768.28, Florida Statutes, in a
 1157 reference thereto, paragraph (e) of subsection (4) of section
 1158 589.19, Florida Statutes, is reenacted to read:

1159 589.19 Creation of certain state forests; naming of
 1160 certain state forests; Operation Outdoor Freedom Program.—

1161 (4)

1162 (e)1. A private landowner who provides land for
 1163 designation and use as an Operation Outdoor Freedom Program
 1164 hunting site shall have limited liability pursuant to s.
 1165 375.251.

1166 2. A private landowner who consents to the designation and
 1167 use of land as part of the Operation Outdoor Freedom Program
 1168 without compensation shall be considered a volunteer, as defined
 1169 in s. 110.501, and shall be covered by state liability
 1170 protection pursuant to s. 768.28, including s. 768.28(9).

1171 3. This subsection does not:

1172 a. Relieve any person of liability that would otherwise
 1173 exist for deliberate, willful, or malicious injury to persons or
 1174 property.

1175 b. Create or increase the liability of any person.

1176 Section 35. For the purpose of incorporating the amendment
 1177 made by this act to section 768.28, Florida Statutes, in a
 1178 reference thereto, paragraph (c) of subsection (2) of section
 1179 723.0611, Florida Statutes, is reenacted to read:

1180 723.0611 Florida Mobile Home Relocation Corporation.—

1181 (2)

1182 (c) The corporation shall, for purposes of s. 768.28, be
 1183 considered an agency of the state. Agents or employees of the
 1184 corporation, members of the board of directors of the
 1185 corporation, or representatives of the Division of Florida
 1186 Condominiums, Timeshares, and Mobile Homes shall be considered
 1187 officers, employees, or agents of the state, and actions against
 1188 them and the corporation shall be governed by s. 768.28.

1189 Section 36. For the purpose of incorporating the amendment
 1190 made by this act to section 768.28, Florida Statutes, in a
 1191 reference thereto, subsection (5) of section 760.11, Florida
 1192 Statutes, is reenacted to read:

1193 760.11 Administrative and civil remedies; construction.—

1194 (5) In any civil action brought under this section, the
 1195 court may issue an order prohibiting the discriminatory practice
 1196 and providing affirmative relief from the effects of the
 1197 practice, including back pay. The court may also award
 1198 compensatory damages, including, but not limited to, damages for
 1199 mental anguish, loss of dignity, and any other intangible
 1200 injuries, and punitive damages. The provisions of ss. 768.72 and

1201 768.73 do not apply to this section. The judgment for the total
1202 amount of punitive damages awarded under this section to an
1203 aggrieved person shall not exceed \$100,000. In any action or
1204 proceeding under this subsection, the court, in its discretion,
1205 may allow the prevailing party a reasonable attorney's fee as
1206 part of the costs. It is the intent of the Legislature that this
1207 provision for attorney's fees be interpreted in a manner
1208 consistent with federal case law involving a Title VII action.
1209 The right to trial by jury is preserved in any such private
1210 right of action in which the aggrieved person is seeking
1211 compensatory or punitive damages, and any party may demand a
1212 trial by jury. The commission's determination of reasonable
1213 cause is not admissible into evidence in any civil proceeding,
1214 including any hearing or trial, except to establish for the
1215 court the right to maintain the private right of action. A civil
1216 action brought under this section shall be commenced no later
1217 than 1 year after the date of determination of reasonable cause
1218 by the commission. The commencement of such action shall divest
1219 the commission of jurisdiction of the complaint, except that the
1220 commission may intervene in the civil action as a matter of
1221 right. Notwithstanding the above, the state and its agencies and
1222 subdivisions shall not be liable for punitive damages. The total
1223 amount of recovery against the state and its agencies and
1224 subdivisions shall not exceed the limitation as set forth in s.
1225 768.28(5).

1226 Section 37. For the purpose of incorporating the amendment
 1227 made by this act to section 768.28, Florida Statutes, in a
 1228 reference thereto, subsection (5) of section 766.1115, Florida
 1229 Statutes, is reenacted to read:

1230 766.1115 Health care providers; creation of agency
 1231 relationship with governmental contractors.—

1232 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
 1233 contractor must provide written notice to each patient, or the
 1234 patient's legal representative, receipt of which must be
 1235 acknowledged in writing, that the provider is an agent of the
 1236 governmental contractor and that the exclusive remedy for injury
 1237 or damage suffered as the result of any act or omission of the
 1238 provider or of any employee or agent thereof acting within the
 1239 scope of duties pursuant to the contract is by commencement of
 1240 an action pursuant to the provisions of s. 768.28. With respect
 1241 to any federally funded community health center, the notice
 1242 requirements may be met by posting in a place conspicuous to all
 1243 persons a notice that the federally funded community health
 1244 center is an agent of the governmental contractor and that the
 1245 exclusive remedy for injury or damage suffered as the result of
 1246 any act or omission of the provider or of any employee or agent
 1247 thereof acting within the scope of duties pursuant to the
 1248 contract is by commencement of an action pursuant to the
 1249 provisions of s. 768.28.

1250 Section 38. For the purpose of incorporating the amendment

1251 made by this act to section 768.28, Florida Statutes, in a
 1252 reference thereto, subsection (2) of section 766.112, Florida
 1253 Statutes, is reenacted to read:

1254 766.112 Comparative fault.—

1255 (2) In an action for damages for personal injury or
 1256 wrongful death arising out of medical negligence, whether in
 1257 contract or tort, when an apportionment of damages pursuant to
 1258 s. 768.81 is attributed to a board of trustees of a state
 1259 university, the court shall enter judgment against the board of
 1260 trustees on the basis of the board's percentage of fault and not
 1261 on the basis of the doctrine of joint and several liability. The
 1262 sole remedy available to a claimant to collect a judgment or
 1263 settlement against a board of trustees, subject to the
 1264 provisions of this subsection, shall be pursuant to s. 768.28.

1265 Section 39. For the purpose of incorporating the amendment
 1266 made by this act to section 768.28, Florida Statutes, in a
 1267 reference thereto, subsection (3) of section 768.1355, Florida
 1268 Statutes, is reenacted to read:

1269 768.1355 Florida Volunteer Protection Act.—

1270 (3) Members of elected or appointed boards, councils, and
 1271 commissions of the state, counties, municipalities, authorities,
 1272 and special districts shall incur no civil liability and shall
 1273 have immunity from suit as provided in s. 768.28 for acts or
 1274 omissions by members relating to members' conduct of their
 1275 official duties. It is the intent of the Legislature to

1276 encourage our best and brightest people to serve on elected and
1277 appointed boards, councils, and commissions.

1278 Section 40. For the purpose of incorporating the amendment
1279 made by this act to section 768.28, Florida Statutes, in a
1280 reference thereto, subsection (4) of section 768.295, Florida
1281 Statutes, is reenacted to read:

1282 768.295 Strategic Lawsuits Against Public Participation
1283 (SLAPP) prohibited.—

1284 (4) A person or entity sued by a governmental entity or
1285 another person in violation of this section has a right to an
1286 expeditious resolution of a claim that the suit is in violation
1287 of this section. A person or entity may move the court for an
1288 order dismissing the action or granting final judgment in favor
1289 of that person or entity. The person or entity may file a motion
1290 for summary judgment, together with supplemental affidavits,
1291 seeking a determination that the claimant's or governmental
1292 entity's lawsuit has been brought in violation of this section.
1293 The claimant or governmental entity shall thereafter file a
1294 response and any supplemental affidavits. As soon as
1295 practicable, the court shall set a hearing on the motion, which
1296 shall be held at the earliest possible time after the filing of
1297 the claimant's or governmental entity's response. The court may
1298 award, subject to the limitations in s. 768.28, the party sued
1299 by a governmental entity actual damages arising from a
1300 governmental entity's violation of this section. The court shall

1301 award the prevailing party reasonable attorney fees and costs
 1302 incurred in connection with a claim that an action was filed in
 1303 violation of this section.

1304 Section 41. For the purpose of incorporating the amendment
 1305 made by this act to section 768.28, Florida Statutes, in a
 1306 reference thereto, subsection (2) of section 944.713, Florida
 1307 Statutes, is reenacted to read:

1308 944.713 Insurance against liability.—

1309 (2) The contract shall provide for indemnification of the
 1310 state by the private vendor for any liabilities incurred up to
 1311 the limits provided under s. 768.28(5). The contract shall
 1312 provide that the private vendor, or the insurer of the private
 1313 vendor, is liable to pay any claim or judgment for any one
 1314 person which does not exceed the sum of \$100,000 or any claim or
 1315 judgment, or portions thereof, which, when totaled with all
 1316 other claims or judgments arising out of the same incident or
 1317 occurrence, does not exceed the sum of \$200,000. In addition,
 1318 the contractor must agree to defend, hold harmless, and
 1319 indemnify the department against any and all actions, claims,
 1320 damages and losses, including costs and attorney's fees.

1321 Section 42. For the purpose of incorporating the amendment
 1322 made by this act to section 768.28, Florida Statutes, in a
 1323 reference thereto, section 946.5026, Florida Statutes, is
 1324 reenacted to read:

1325 946.5026 Sovereign immunity in tort actions.—The

1326 provisions of s. 768.28 shall be applicable to the corporation
 1327 established under this part, which is deemed to be a corporation
 1328 primarily acting as an instrumentality of the state.

1329 Section 43. For the purpose of incorporating the amendment
 1330 made by this act to section 768.28, Florida Statutes, in a
 1331 reference thereto, subsection (3) of section 946.514, Florida
 1332 Statutes, is reenacted to read:

1333 946.514 Civil rights of inmates; inmates not state
 1334 employees; liability of corporation for inmate injuries.—

1335 (3) The corporation is liable for inmate injury to the
 1336 extent specified in s. 768.28; however, the members of the board
 1337 of directors are not individually liable to any inmate for any
 1338 injury sustained in any correctional work program operated by
 1339 the corporation.

1340 Section 44. For the purpose of incorporating the amendment
 1341 made by this act to section 768.28, Florida Statutes, in a
 1342 reference thereto, subsections (5), (6), and (7) of section
 1343 961.06, Florida Statutes, are reenacted to read:

1344 961.06 Compensation for wrongful incarceration.—

1345 (5) Before the department approves the application for
 1346 compensation, the wrongfully incarcerated person must sign a
 1347 release and waiver on behalf of the wrongfully incarcerated
 1348 person and his or her heirs, successors, and assigns, forever
 1349 releasing the state or any agency, instrumentality, or any
 1350 political subdivision thereof, or any other entity subject to s.

1351 768.28, from all present or future claims that the wrongfully
1352 incarcerated person or his or her heirs, successors, or assigns
1353 may have against such entities arising out of the facts in
1354 connection with the wrongful conviction for which compensation
1355 is being sought under the act.

1356 (6) (a) A wrongfully incarcerated person may not submit an
1357 application for compensation under this act if the person has a
1358 lawsuit pending against the state or any agency,
1359 instrumentality, or any political subdivision thereof, or any
1360 other entity subject to the provisions of s. 768.28, in state or
1361 federal court requesting compensation arising out of the facts
1362 in connection with the claimant's conviction and incarceration.

1363 (b) A wrongfully incarcerated person may not submit an
1364 application for compensation under this act if the person is the
1365 subject of a claim bill pending for claims arising out of the
1366 facts in connection with the claimant's conviction and
1367 incarceration.

1368 (c) Once an application is filed under this act, a
1369 wrongfully incarcerated person may not pursue recovery under a
1370 claim bill until the final disposition of the application.

1371 (d) Any amount awarded under this act is intended to
1372 provide the sole compensation for any and all present and future
1373 claims arising out of the facts in connection with the
1374 claimant's conviction and incarceration. Upon notification by
1375 the department that an application meets the requirements of

1376 | this act, a wrongfully incarcerated person may not recover under
 1377 | a claim bill.

1378 | (e) Any compensation awarded under a claim bill shall be
 1379 | the sole redress for claims arising out of the facts in
 1380 | connection with the claimant's conviction and incarceration and,
 1381 | upon any award of compensation to a wrongfully incarcerated
 1382 | person under a claim bill, the person may not receive
 1383 | compensation under this act.

1384 | (7) Any payment made under this act does not constitute a
 1385 | waiver of any defense of sovereign immunity or an increase in
 1386 | the limits of liability on behalf of the state or any person
 1387 | subject to the provisions of s. 768.28 or other law.

1388 | Section 45. For the purpose of incorporating the amendment
 1389 | made by this act to section 768.28, Florida Statutes, in a
 1390 | reference thereto, paragraph (h) of subsection (12) of section
 1391 | 1002.33, Florida Statutes, is reenacted to read:

1392 | 1002.33 Charter schools.—

1393 | (12) EMPLOYEES OF CHARTER SCHOOLS.—

1394 | (h) For the purposes of tort liability, the charter
 1395 | school, including its governing body and employees, shall be
 1396 | governed by s. 768.28. This paragraph does not include any for-
 1397 | profit entity contracted by the charter school or its governing
 1398 | body.

1399 | Section 46. For the purpose of incorporating the amendment
 1400 | made by this act to section 768.28, Florida Statutes, in a

1401 reference thereto, paragraph (b) of subsection (6) of section
 1402 1002.333, Florida Statutes, is reenacted to read:

1403 1002.333 Persistently low-performing schools.—

1404 (6) STATUTORY AUTHORITY.—

1405 (b) For the purposes of tort liability, the hope operator,
 1406 the school of hope, and its employees or agents shall be
 1407 governed by s. 768.28. The sponsor shall not be liable for civil
 1408 damages under state law for the employment actions or personal
 1409 injury, property damage, or death resulting from an act or
 1410 omission of a hope operator, the school of hope, or its
 1411 employees or agents. This paragraph does not include any for-
 1412 profit entity contracted by the charter school or its governing
 1413 body.

1414 Section 47. For the purpose of incorporating the amendment
 1415 made by this act to section 768.28, Florida Statutes, in a
 1416 reference thereto, subsection (17) of section 1002.34, Florida
 1417 Statutes, is reenacted to read:

1418 1002.34 Charter technical career centers.—

1419 (17) IMMUNITY.—For the purposes of tort liability, the
 1420 governing body and employees of a center are governed by s.
 1421 768.28.

1422 Section 48. For the purpose of incorporating the amendment
 1423 made by this act to section 768.28, Florida Statutes, in a
 1424 reference thereto, paragraph (1) of subsection (3) of section
 1425 1002.55, Florida Statutes, is reenacted to read:

1426 1002.55 School-year prekindergarten program delivered by
 1427 private prekindergarten providers.—

1428 (3) To be eligible to deliver the prekindergarten program,
 1429 a private prekindergarten provider must meet each of the
 1430 following requirements:

1431 (1) Notwithstanding paragraph (j), for a private
 1432 prekindergarten provider that is a state agency or a subdivision
 1433 thereof, as defined in s. 768.28(2), the provider must agree to
 1434 notify the coalition of any additional liability coverage
 1435 maintained by the provider in addition to that otherwise
 1436 established under s. 768.28. The provider shall indemnify the
 1437 coalition to the extent permitted by s. 768.28. Notwithstanding
 1438 paragraph (j), for a child development program that is
 1439 accredited by a national accrediting body and operates on a
 1440 military installation that is certified by the United States
 1441 Department of Defense, the provider may demonstrate liability
 1442 coverage by affirming that it is subject to the Federal Tort
 1443 Claims Act, 28 U.S.C. ss. 2671 et seq.

1444 Section 49. For the purpose of incorporating the amendment
 1445 made by this act to section 768.28, Florida Statutes, in a
 1446 reference thereto, subsection (10) of section 1002.83, Florida
 1447 Statutes, is reenacted to read:

1448 1002.83 Early learning coalitions.—

1449 (10) For purposes of tort liability, each member or
 1450 employee of an early learning coalition shall be governed by s.

1451 768.28.

1452 Section 50. For the purpose of incorporating the amendment
1453 made by this act to section 768.28, Florida Statutes, in a
1454 reference thereto, paragraph (p) of subsection (1) of section
1455 1002.88, Florida Statutes, is reenacted to read:

1456 1002.88 School readiness program provider standards;
1457 eligibility to deliver the school readiness program.—

1458 (1) To be eligible to deliver the school readiness
1459 program, a school readiness program provider must:

1460 (p) Notwithstanding paragraph (m), for a provider that is
1461 a state agency or a subdivision thereof, as defined in s.
1462 768.28(2), agree to notify the coalition of any additional
1463 liability coverage maintained by the provider in addition to
1464 that otherwise established under s. 768.28. The provider shall
1465 indemnify the coalition to the extent permitted by s. 768.28.
1466 Notwithstanding paragraph (m), for a child development program
1467 that is accredited by a national accrediting body and operates
1468 on a military installation that is certified by the United
1469 States Department of Defense, the provider may demonstrate
1470 liability coverage by affirming that it is subject to the
1471 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

1472 Section 51. For the purpose of incorporating the amendment
1473 made by this act to section 768.28, Florida Statutes, in a
1474 reference thereto, subsection (1) of section 1006.24, Florida
1475 Statutes, is reenacted to read:

1476 1006.24 Tort liability; liability insurance.—

1477 (1) Each district school board shall be liable for tort
 1478 claims arising out of any incident or occurrence involving a
 1479 school bus or other motor vehicle owned, maintained, operated,
 1480 or used by the district school board to transport persons, to
 1481 the same extent and in the same manner as the state or any of
 1482 its agencies or subdivisions is liable for tort claims under s.
 1483 768.28, except that the total liability to persons being
 1484 transported for all claims or judgments of such persons arising
 1485 out of the same incident or occurrence shall not exceed an
 1486 amount equal to \$5,000 multiplied by the rated seating capacity
 1487 of the school bus or other vehicle, as determined by rules of
 1488 the State Board of Education, or \$100,000, whichever is greater.
 1489 The provisions of s. 768.28 apply to all claims or actions
 1490 brought against district school boards, as authorized in this
 1491 subsection.

1492 Section 52. For the purpose of incorporating the amendment
 1493 made by this act to section 768.28, Florida Statutes, in a
 1494 reference thereto, paragraph (b) of subsection (2) of section
 1495 1006.261, Florida Statutes, is reenacted to read:

1496 1006.261 Use of school buses for public purposes.—

1497 (2)

1498 (b) For purposes of liability for negligence, state
 1499 agencies or subdivisions as defined in s. 768.28(2) shall be
 1500 covered by s. 768.28. Every other corporation or organization

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1501 shall provide liability insurance coverage in the minimum
1502 amounts of \$100,000 on any claim or judgment and \$200,000 on all
1503 claims and judgments arising from the same incident or
1504 occurrence.

1505 Section 53. This act shall take effect July 1, 2022.