

# LEGISLATIVE CLAIM BILL MANUAL

POLICIES, PROCEDURES, AND  
INFORMATION CONCERNING  
INTRODUCTION AND PASSAGE



THE FLORIDA HOUSE  
OF  
REPRESENTATIVES  
COMMITTEE ON  
CLAIMS



THE FLORIDA  
SENATE  
OFFICE OF THE  
PRESIDENT

Revised 1999

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# INTRODUCTION

The claim bill process is often thought to be unique, complex, and confusing. This manual is designed to assist the layperson and the expert in navigating through the claim process, in an effort to maintain a fair and understandable system. Both House and Senate staff are available to answer any questions relative to the claim bill process. House Staff of the Committee on Claims can be reached at (850) 487-2260; Senate Staff can be reached at (850) 487-5237.

## Suggested Procedures for Legislators

- √ Advise the claimant or the attorney of the sequence of events in the filing of a claim bill.
- √ Determine whether the bill is local and settled. If a bill meets both of these criteria, the House Committee on Claims may be able to file the bill as a PCB. Committee staff will need a copy of the documentation as well as the settlement agreement signed by all parties.
- √ Ensure that a Senate companion bill is timely filed (by August 1 of the preceding year.)
- √ Make sure that the claim is ready to be heard by the Special Master; the Special Master will schedule the hearing.
- √ Check with the staff of the Committee on Claims to determine whether the claim has been filed in the past, and if so, obtain a copy of any available previous report.
- √ Ask the claimant or attorney to provide you with an information packet containing the major documentation and a summary of the highlights of the claim. Submit the information to the bill drafting office for preparation of the claim bill.
- √ Attend the Special Master hearing if time allows. Note that the attendance of the bill sponsor is not necessary.
- √ Follow the bill through the regular committee process once the Special Master's report is published. Generally, the Special Master will present his or her report to the first committee of reference, but the bill sponsor should be present and available for questions by Committee members.

# **I. FLORIDA STATUTES AND RULES RELEVANT TO THE CLAIM BILL PROCESS**

## **A. What is Sovereign Immunity?**

Sovereign immunity is a doctrine which prohibits suits against the government without the government's consent. The Florida Constitution addresses sovereign immunity in *Article X, section 13*. This provision allows the state to waive its immunity through an enactment of general law. Sovereign immunity extends to all subdivisions of the state, including counties, municipalities, and school boards.

In 1973, the Florida Legislature enacted section 768.28, *F.S.* This section allows individuals to sue the government, subdivisions of the state, and municipalities. According to subsection (1), individuals may sue the government under circumstances where a private person "would be liable to the claimant, in accordance with the general laws of the state..."

## **B. Are there Monetary Limits on Recovery?**

Sub-section 768.28(5), *F.S.*, imposes a \$100,000 limit on the government's liability to a single person. Furthermore, it imposes a \$200,000 limit on the government's liability for claims arising out of a single incident. These limits do not preclude plaintiffs from obtaining judgments in excess of the statutory cap; however, plaintiffs cannot force the government to pay damages which exceed the recovery cap. Section 11.066, *F.S.*, requires a claimant to petition the Legislature in accordance with its rules, to seek an appropriation to enforce a judgment against the state or state agency. The exclusive remedy to enforce damage awards that exceed the recovery cap is by an act of the Legislature through the claim bill process.

## **C. What is a Claim Bill?**

A claim bill, sometimes called a relief act, is a bill that compensates a particular individual or entity for injuries or losses occasioned by the negligence or error of a public officer or agency. It is a means by which an injured party may recover damages even though the public officer or agency involved may be immune from suit. *The Language of Lawmaking in Florida IV, compiled by John B. Phelps and the staff of the Office of the Clerk, 1998*. Majority approval by both houses of the Legislature is required. *Article III, section 7 of the State Constitution and Opinion of the Attorney General, 72-99*. For an example of a claim bill, see the Appendix of this Manual.

## **D. Can a Claimant Collect in Excess of the \$100,000/\$200,000 Limit Without Filing a Claim Bill?**

Section 768.28(5), *Florida Statutes*, provides that the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to pay a claim made or a judgment rendered against it without further action by the Legislature.

**E. Is there a Statute of Limitations?**

Pursuant to section 11.065, *Florida Statutes*, no claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Any claim presented after this time of limitation shall be void and unenforceable. Further, all relief acts of the Legislature shall be for payment in full. No further claims for relief shall be submitted to the Legislature in the future.

**F. What are the Filing Deadlines?**

Generally, the Legislature will not consider a claim bill until all litigation, including any appellate proceedings, have been concluded. *Rule 4.81 of the Rules of the Florida Senate* requires that all claim bills be filed with the Secretary of the Senate on or before August 1 to be considered by the Senate during the next regular session. *Rule 44 of the Rules of the House of Representatives* requires local bills, except local bills introduced by a standing committee (proposed committee bills, or PCB's) to be filed with the Clerk by noon of the first day of the regular session. No filing deadline exists for general bills filed in the House of Representatives.

**G. Is there a Limit on the Number of House Bills Filed?**

*Rule 54 of the Rules of the House of Representatives* allows Members to be the first-named sponsor of no more than six bills under consideration during a regular session. Claim bills count toward the six bill limit.

**H. General or Local?**

A general law is an act intended to have statewide application. For claim bill purposes, if the respondent of the claim is a state agency, which would require an appropriation from the state's general revenue or from an executive agencies' budget, then the claim is a general bill.

A local or special law is any legislative act that: (1) applies to an area or group that is less than the total area or population of the state; and (2) contains subject matter that entitles those to whom it is applicable to the publication or referendum required by *Section 10 of Article III of the State Constitution*. Generally, if the respondent of the claim is a county, municipality, school board, or other subdivision of the state, then the claim is a local bill.

*Section 10 of Article III of the State Constitution* prohibits special laws unless notice of intention to seek enactment thereof has been published in the manner provided by general law. *Sections 11.02, 11.021, and 11.03, Florida Statutes*, provide the requirements for publication of the required notice. Specifically, the notice must contain the name of the claimant, the nature of the injury or loss, and the amount of the claim.

*Rule 44c of the Rules of the House of Representatives* requires all local claim bills to be accompanied by an affidavit of proper advertisement, securely attached to the original bill ahead of its first page. Similarly, *Rule 3.3 of the Rules of the Senate* requires all local bills to be accompanied by an affidavit of proper advertisement, which form may be obtained from the Secretary of the Senate. Furthermore, the Senate requires all local

bills that require publication, when introduced, to have proof of publication securely attached to the original copy of the bill and the words "Proof of Publication Attached" clearly typed or stamped on the Senate side of the bill jacket or cover.

Examples of both general and local bills, as well as the required proof of advertisement can be found in the Appendix of this Manual. See also the discussion of general and local bills in the section of this Manual entitled, "Basic Considerations in Preparing a Claim Bill."

**I. How does the Special Master Process Work?**

Once filed, the presiding officer of each house of the Legislature refers the bill to a Special Master, as well as to one or more committees for review. The Special Masters of each house conduct a joint hearing to determine liability, proximate cause, and damages. *Rule 4.81c of the Rules of the Senate* requires such hearing to be conducted pursuant to reasonable notice, with discovery governed by the Florida Rules of Civil Procedure and the Florida Evidence Code, as applicable. The Special Master will administer an oath to all witnesses, accept relevant documentary and tangible evidence properly offered, tape record the proceedings, and prepare a final report containing findings of fact, conclusions of law and recommendations. The Senate Special Master is required to submit his or her report to the Senate President by December 1. Special Masters are not bound by stipulations entered into by the parties; further, once filed, claim bills are subject to the amendatory process of each house as provided by rule. Though not bound by the Senate rule, House Special Masters generally follow the same process; however, a House Special Master may file a summary report regarding settled claims. The House Committee on Claims must have a settlement agreement signed by all parties before the claim is considered "settled."

An example of a recent Special Master's report, as well as a summary report can be found in the Appendix of this Manual.

**J. Are there any Restrictions on Fees?**

*Subsection (8) of section 768.28, F.S.* provides that no attorney may charge, demand, receive, or collect, for services rendered, fees in excess of 25 percent of any judgment or settlement. The Florida Supreme Court has held that the legislature has the authority to limit attorneys fees pursuant to claims appropriations, despite the fact that an attorney had contracted for a higher amount. *Gamble v. Wells, 450 So.2d 850 (Fla. 1984)*. Fees contingent upon the outcome of any specific legislative action are generally prohibited by *section 11.047, F.S.*, except for claim bills. Further, it is considered a conflict of interest for a legislator to file a claim bill if that member, or the member's law partner, would receive a fee for services. See *Committee on Ethics, House Opinion 69-009 and 71-016* in the Appendix of this Manual. Further, *Gamble v. Wells* is reprinted in full in the Appendix.

## II. COMPARISON BETWEEN HOUSE AND SENATE RULES REGARDING CLAIM BILLS

Issue	Senate Rule	House Rule
Filing Deadline	4.81(b) - Claim bills must be filed with the Senate clerk before August 1 in order to be considered by the Senate during the next regular session. Applies to both general and local claim bills. Provides an exception for emergencies.	44(d) - Local bills shall not be given first reading unless filed with the Clerk by noon on the first day of regular session. Deadline does not apply to general bills or local PCB's.
Companion Bill	4.81(b) - A House claim bill without a Senate companion timely filed will not be considered by the Senate. There is an exception for emergencies.	
Committee Referral	4.81(c) - All claim bills shall be referred to one or more committees for review.	117(a) - All bills carrying or affecting appropriations, including all claim bills, may be referred to the appropriate fiscal committee, in addition to substantive committee referrals.
Special Master Hearing	4.81(c) - A Special Master shall conduct a hearing pursuant to reasonable notice; administer oaths to all witnesses; accept relevant evidence; and prepare a final report containing findings of fact, conclusions of law, and recommendations by December 1.	As a policy, the House acts similarly to the Senate in this regard.  Depending on the circumstances, House policy does not require a full Special Master's report on settled claims, but allows a summary report to be submitted.  In practice, both House and Senate Special Master hold the hearing jointly, but submit independent reports.
Consideration of Claim	4.81(f) - The hearing and consideration of a claim, any element of which is pending in litigation, shall be held in abeyance until all litigation, including any appellate proceedings, are complete.	As a policy, the House will not hear claim bills until all judicial remedies are exhausted.
Bill Limit		54(a) & (b) - A House Member may not be the first named sponsor of more than six bills under consideration during a regular session. All claim bills are counted towards this limit, except for PCB's.

### III. BASIC CONSIDERATIONS IN PREPARING A CLAIM BILL

*Prepared by David Lee, House Bill Drafting Office*

#### ***DISTINCTIONS BETWEEN GENERAL AND LOCAL CLAIM BILLS***

The first and most important consideration in preparing a proposed claim bill is determining the proper respondent and whether the claim bill is local or general in nature. Local claim bills are those seeking relief from a local governmental entity such as a municipality, special district, local constitutional officer, or county. A general claim bill seeks relief from the state, most commonly a state agency.

There are two important facial characteristics which distinguish a local claim bill from a general claim bill: the "relating to" clause in the title of the bill and the appropriation sections that follow the enacting clause.

The "relating to" clause in the title of a local claim bill should always cite the name of the county or the local governmental entity from which relief is being sought. In other words, the "relating to" clause of a local relief act - "An act relating to Seminole County;" "An act relating to the Palm Beach County Sheriff's Department;" "An act relating to the West Volusia Hospital District;" - always indicates that the bill is local in nature.

The "relating to" clause for a general claim bill should always be styled as "An act for the relief of John Smith and Mary Smith" (naming the claimant or claimants seeking relief under the act).

The current format for appropriation and disbursement sections used in general claim bills introduced in the House was adopted beginning with the 1996 regular legislative session and represents one of the first major changes in years with respect to the form of claim bills. The standard format for these sections in general claim bills introduced in the House is as follows:

*Section 1. The facts stated in the preamble to this act are found and declared to be true.*

*Section 2. The Executive Office of the Governor is directed to transfer existing spending authority or establish spending authority from unappropriated trust fund balances in the Department of \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to a new category titled Relief - \_\_\_\_\_" as relief for injuries and damages sustained.*

*Section 3. The Comptroller is directed to draw his warrant in favor of \_\_\_\_\_ in the sum of \$ \_\_\_\_\_ upon funds of the Department of \_\_\_\_\_ in the State Treasury and the State Treasurer is directed to pay the same out of such funds in the State Treasury.*

*Section 4. This act shall take effect \_\_\_\_\_.*

The appropriation section in a local claim bill is most easily distinguishable from that of a general claim bill in that it is a single section which combines both appropriation and

disbursement provisions. The standard format for local claim bills in the House is as follows:

*Section 1. The facts stated in the preamble to this act are found and declared to be true.*

*Section 2. The \_\_\_\_\_ is authorized and directed to appropriate from funds of the \_\_\_\_\_ not otherwise appropriated and to draw a warrant in the sum of \$\_\_\_\_\_ payable to \_\_\_\_\_ to compensate him/her for injuries and damages sustained.*

*Section 3. This act shall take effect \_\_\_\_\_.*

### **CLAIMS IN WHICH A SETTLEMENT HAS BEEN REACHED**

Though it is common practice to provide a recitation of the facts and history pertinent to a claim for relief in the "WHEREAS" clauses of a claim bill, such a recounting of the facts leading up to the commencement of legal action is not necessary for claim bills in which a settlement has been reached. Such a narrative recital of the underlying facts for a claim in which a settlement has been reached can be reduced to a single "WHEREAS" clause:

*WHEREAS, on October 8, 1990, John Smith was involved in an accident with a vehicle operated by the City of Tallahassee, which accident formed the basis of legal action against the City of Tallahassee, and*

The remaining facts with respect to the resultant litigation leading to the settlement, and the terms of the settlement, can then be set forth in "WHEREAS" clauses.

### **PAYMENT OF STATUTORY LIMITS OF LIABILITY**

One of the most common omissions in the submission of proposed claim bills is an indication of whether the governmental entity from whom relief is sought has paid the claimant or claimants the requisite amounts due under s. 768.28, Florida Statutes, Florida's sovereign immunity statute, which sets the limits of liability of the state and its political subdivisions. To avoid confusion, this provision should be included at or near the end of the "WHEREAS" clauses, followed by a statement of the remaining amount of the claim:

*WHEREAS, Leon County has paid \$100,000 in satisfaction of the judgment pursuant to the limits of liability set forth in s. 768.28, Florida Statutes, and*

*WHEREAS, the remaining amount of the claim against Leon County is \$1,168,319, NOW, THEREFORE,*

Though not required, indications of payments made pursuant to the sovereign immunity statute are sometimes also included in the appropriation section of a claim bill:

*Section 2. The Leon County School Board is authorized and directed to appropriate from funds of the school board not otherwise appropriated and to draw a warrant in the sum of \$1,168,319, reduced by \$100,000 already paid by the school board, payable to John Smith to compensate him for injuries and damages sustained.*

**- OR -**

*Section 2. The Leon County School Board is authorized and directed to appropriate from funds of the school board not otherwise appropriated and to draw a warrant in the sum of \$1,168,319 payable to John Smith to compensate him for injuries and damages sustained. Such amount shall be paid in addition to the \$100,000 payable pursuant to section 768.28, Florida Statutes, Florida's sovereign immunity statute.*

Examples such as those included within the appropriation sections shown above tend to occur more commonly as the result of committee amendments to the appropriation section, particularly when the indication as to payment under section 768.28 hasn't been made elsewhere in the bill. If this indication is made in the bill's "WHEREAS" clauses and in the appropriation section, it is important that the amount of final payment be accurate and consistent with the stated payment or lack of payment under the state's limit of liability statute.

#### **APPORTIONMENT OF CLAIM AMONG MULTIPLE CLAIMANTS**

Another omission that sometimes occurs in the submission of proposed claim bills is the apportionment of the amount of a claim when there are multiple claimants. The Legislature requires specification of the exact amount each claimant is to receive. To omit this information will only slow the process of preparing a claim bill.

Claim bills with multiple claimants may require a separate appropriation section for each claimant, and are usually apportioned in direct proportion to the jury award or settlement amounts. A good example of this can be found in HB 1111 or SB 32 from the 1999 legislative session.

#### **MEDICAID REIMBURSEMENT PROVISIONS**

Though the House has not officially adopted any boilerplate language for claim bills with regard to reimbursement of medical payments made by Medicaid, a more or less standard provision has evolved during the last few legislative sessions. Always located after the appropriation section and before the effective date, the most frequently used wording is as follows:

*Section 3. The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date upon which this act becomes a law.*

Should such language be the subject of an amendment to a claim bill, it should be noted that an accompanying title provision is needed. "Providing for repayment of Medicaid

liens" would be a sufficient title proviso for such a section.

Examples of claim bills which contain this provision can be found in SB 4, SB 14, and SB 46 from the 1999 legislative session. Variations of this language can be found in CS/SB 28, SB 34, SB 52, CS/SB 58, and SB 60 from the 1998 legislative session.

### **AWARD OF CLAIMS TO MINORS - ESTABLISHMENT OF TRUST**

An essential piece of information that needs to be provided when submitting a proposed relief act is whether the claimant is currently a minor, and whether the claimant was a minor at the time of the incident which gave rise to the cause of action upon which the claim is based. If the claimant is a minor and will be a minor at the time of the prospective passage of the claim bill, it is also essential to know whether a trust has been established for the minor claimant. The Legislature should not pass a claim bill which makes a monetary award to a minor. The following is a sample appropriation section and accompanying title provisions for a local claim bill on behalf of a minor in which a special needs trust has been established for the minor claimant:

*Section 2. The Leon County School Board is authorized and directed to draw a warrant in the sum of \$1,168,319 payable to Mary Smith and John Smith, Sr., as parents and natural guardians of John Smith, Jr., a minor, as compensation for injuries and damages sustained. After payment of statutory attorney fees, and costs, the balance shall be paid into the existing Special Needs Trust Fund established for John Smith, Jr.*

*[Title provision] providing for the relief of John Smith, Jr., by and through his parents and natural guardians, Mary Smith and John Smith, Sr.; providing for an appropriation to compensate him for injuries and damages sustained; specifying use of funds;*

### **REVERSION OF FUNDS UPON DEATH OF CLAIMANT**

Trust agreements established for a claimant receiving an award pursuant to a relief act may provide a contingency for the balance of the funds placed in trust to revert to the state upon the death of a claimant. An example of such contingency is shown below. Also, see SB 4 from the 1999 legislative session.

*Section 3. The Comptroller shall draw a warrant from nonrecurring general revenue in the sum of \$1,681,319 payable to John Smith, Sr., and Mary Smith, parents and legal guardians of John Smith, Jr., to be placed in the Trust created for the benefit of John Smith, Jr., a minor, to compensate him for injuries and damages sustained. Upon the death of John Smith, Jr., the Trust balance shall revert to the general revenue of the State of Florida pursuant to the terms of the Trust agreement.*

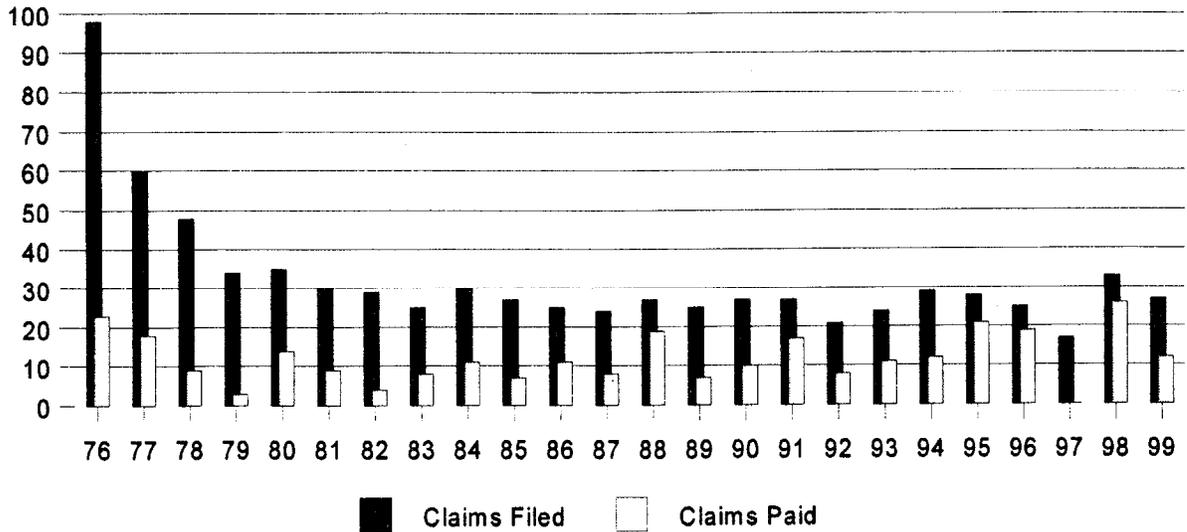
### ***EFFECTIVE DATES***

Though there has never been a standard or recommended effective date for relief acts, the House Claims Committee, after consultation with the Comptroller's Office, recommends the following guidelines for effective dates of claim bills, beginning with the 2000 regular session:

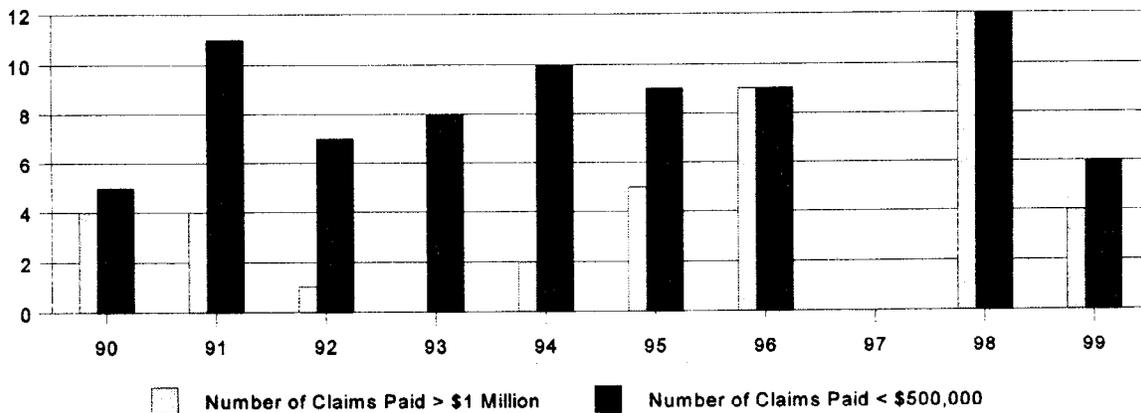
1. If the Legislature intends funds for payment of a claim to be appropriated from the current fiscal year's budget, it is suggested that an effective date of no later than June 30 (rather than the common effective date of July 1) be used.
2. If the Legislature intends funds for payment of a claim to be appropriated from the upcoming fiscal year's budget, an effective date later than July 15 should be used.

#### IV. TRENDS IN LEGISLATIVE CLAIM BILLS

##### Number of Claim Bills



##### Dollar Amounts of Claims Paid

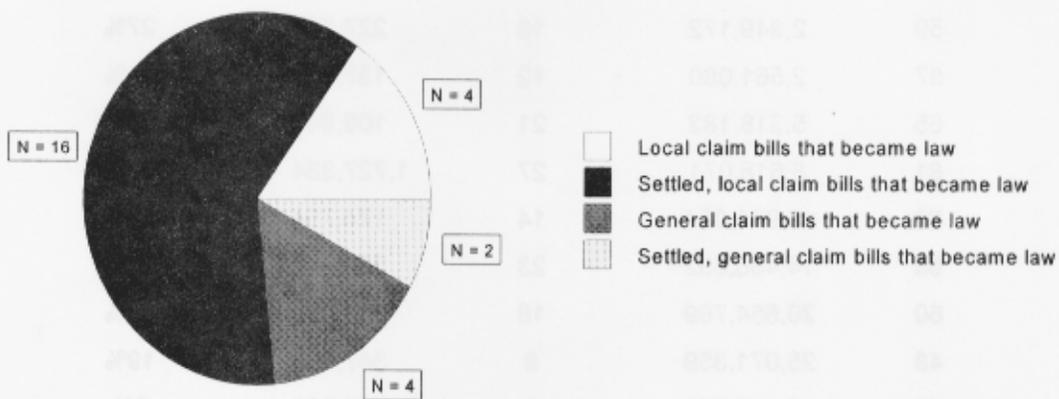


As these graphs demonstrate, the number of claim bills filed per session has generally decreased between 1976 and 1999, as the effect of the 1974 waiver of sovereign immunity took hold. Since that time, the number of claim bills filed has remained relatively constant. Further, the number of claim bills paid in excess of \$ 1 million averages at four per year. The number of claims paid that are less than \$500,000 averages at 7.7 per year.

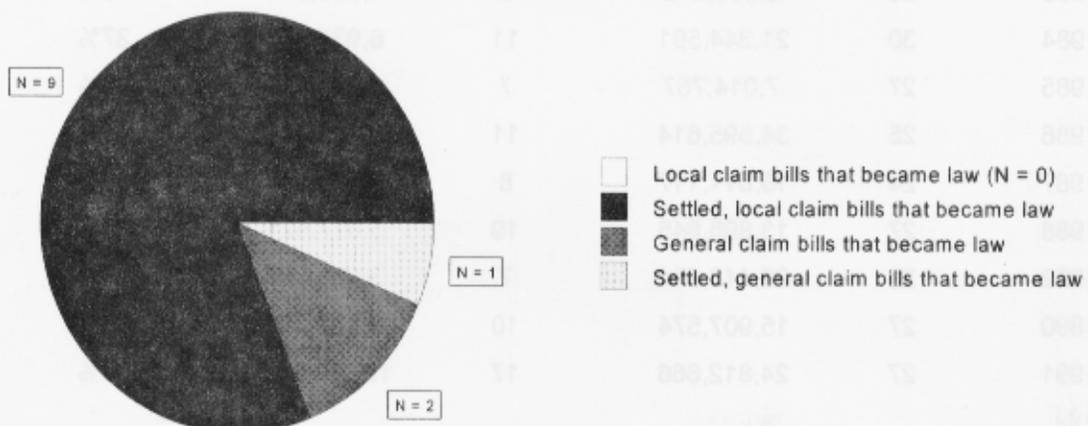
## V. SETTLED CLAIMS

When all of the parties to a claim have resolved all issues of liability and payment of damages in a signed settlement agreement, the claim is considered "settled." Pursuant to section 768.28(5), Florida Statutes, the parties may settle a claim made or judgment rendered within the limits of insurance coverage provided, without further action by the Legislature. House Special Masters may prepare a summary special master report for settled claims. Current data shows that a higher percentage of local, settled claim bills pass both houses of the Legislature than do claim bills of any other type.

### 1998 Claim Bills



### 1999 Claim Bills



## VI. ANNUAL SUMMARY OF CLAIM BILL ACTIVITY IN THE FLORIDA LEGISLATURE SINCE 1955

Year of Session	Total Number of Claims Filed	Total Dollar Amount Claimed	Total Number of Claims that Became Law	Total Dollar Amount Paid	Percentage of Claim Bills Filed that Became Law	Percentage of Requested Dollars Paid
1955	91	\$ 480,254	47	\$ 233,750	52%	49%
1957	68	NVAL	35	NVAL	51%	NVAL
1959	52	198,126	18	75,929	37%	38%
1961	51	345,180	25	83,354	49%	24%
1963	83	853,783	37	64,666	45%	8%
1965	79	927,121	31	193,129	39%	21%
1967	61	1,165,625	30	158,882	49%	14%
1969	119	2,324,588	41	434,275	34%	19%
1970	66	2,841,146	22	488,915	33%	17%
1971	59	2,349,172	16	227,737	27%	10%
1972	57	2,561,080	12	137,911	21%	5%
1973	65	5,318,182	21	108,943	32%	2%
1974	81	8,618,071	27	1,727,334	33%	20%
1975	92	15,941,051	14	174,754	15%	1%
1976	98	14,456,652	23	356,419	23%	2%
1977	60	20,654,799	18	303,480	30%	1%
1978	48	25,071,359	9	347,089	19%	1%
1979	34	19,317,752	3	495,000	9%	2%
1980	35	10,545,417	14	1,303,124	40%	12%
1981	30	10,116,639	9	1,330,420	30%	13%
1982	29	6,728,843	4	67,441	14%	1%
1983	25	6,982,372	8	1,373,509	32%	20%
1984	30	21,344,591	11	6,937,943	37%	33%
1985	27	7,014,757	7	776,931	26%	11%
1986	25	34,595,614	11	2,149,544	44%	6%
1987	24	15,811,117	8	4,394,904	33%	28%
1988	27	13,895,845	19	5,077,521	70%	37%
1989	25	26,443,994	7	3,933,600	28%	15%
1990	27	15,907,574	10	7,838,013	37%	49%
1991	27	24,812,666	17	12,017,251	63%	48%

Year of Session	Total Number of Claims Filed	Total Dollar Amount Claimed	Total Number of Claims that Became Law	Total Dollar Amount Paid	Percentage of Claim Bills Filed that Became Law	Percentage of Requested Dollars Paid
1992	21	12,352,300	8	3,930,606	38%	32%
1993	24	26,534,354	11	3,835,837	46%	14%
1994	29	35,051,753	12	10,436,870	41%	30%
1995	28	30,489,004	21	19,267,194	75%	63%
1996	25	53,166,262	19	45,661,085	76%	86%
1997	17	26,736,638	0	000	0%	0%
1998	33	53,018,374	26	28,640,492	78%	54%
1999	27	27,409,526	12	12,609,783	44%	46%

## **VII. APPENDICES**

### **A. EXAMPLE OF A LOCAL CLAIM BILL**

ENROLLED

1999 Legislature

SB 34, 1st Engrossed

An act relating to the West Volusia Hospital Authority; providing for the relief of Jose Alberto Cruz, Jr., a minor, and his parents and natural guardians, Nelida Cruz and Jose Alberto Cruz, Sr., for injuries and damages caused by the hospital's negligence; specifying use of the funds; providing an effective date.

WHEREAS, Nelida Cruz presented to West Volusia Memorial Hospital in early labor on September 16, 1992, and

WHEREAS, approximately 4 hours later, she was placed on an internal fetal monitor, and Pitocin was administered to her to augment her labor, and

WHEREAS, 6 hours after the Pitocin was initiated, the internal fetal monitor began evidencing prolonged variable decelerations, and the fetus's baseline heart rate changed from 150 to 110 beats per minute, and

WHEREAS, the fetal monitor demonstrated 1-1/2 hours of ongoing fetal distress, but the nurse never reported the information to the obstetrician, and

WHEREAS, at birth, baby Jose Alberto Cruz, Jr., had Apgar scores of 2 and 4 and had suffered irreparable and permanent brain damage due to hypoxic ischemic encephalopathy

from the ongoing fetal distress, and

WHEREAS, a jury trial ensued, and, on the second day of the trial, the West Volusia Hospital Authority agreed to settle for \$2 million, and

WHEREAS, the settlement agreement requires the hospital authority to pay \$200,000 immediately and to pay the balance over a 5-year period in equal annual payments of \$360,000, and

WHEREAS, the payment structure will not involve any tax increase in the West Volusia Hospital Authority Special Taxing District, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The West Volusia Hospital Authority is directed to compensate Nelida Cruz and Jose Alberto Cruz, Sr., as parents and natural guardians of Jose Alberto Cruz, Jr., a minor, in the amount of \$1,800,000 for injuries and damages caused by the negligence of the hospital, such payment to be made in five equal annual installments of \$360,000 each, out of funds of the West Volusia Hospital Authority Special Taxing District reserve account budgeted for such a purpose. After payment of statutory attorney fees, and costs, the balance shall be paid into the existing Special Needs Trust Fund established for Jose A. Cruz, Jr.

Section 3. This act shall take effect upon becoming a law.

## B. EXAMPLE OF A SUMMARY SPECIAL MASTER REPORT FOR A SETTLED CLAIM

Florida House of Representatives  
Committee on Claims  
Summary Claim Bill Report

Bill #: Draft CL 99-05 (HB 1107)  
Sponsor: Claims  
Reference:  
Companion Bill: SB 34 by Senator Dyer

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### A. Basic Information:

1. **Claimants:** Jose Alberto Cruz, Jr. (a minor)
2. **Respondent:** West Volusia Hospital Authority (WVHA)
3. **Amount Requested:** \$1,800,000
4. **Type of Claim:** Excess Judgment/Settlement
5. **Respondent's Position:** WVHA has agreed to the settlement
6. **Collateral Sources:** \$425,000 from treating physicians in prior settlement . Pursuant to a Special Needs Trust, Florida Medicaid will be reimbursed for funds expended.
7. **Prior Legislative History:** None.

**B. Procedural Summary:** This claim involves a complaint for negligence brought against West Volusia Hospital Authority (WVHA). On the second day of a jury trial which began on August 30, 1997, WVHA and the claimant's parents agreed to settle for a gross amount of \$2 million. The Authority has already paid \$200,000. On November 13, 1998 the court entered a final judgment approving the settlement between Jose's parents on behalf of Jose, and the Authority.

**C. Facts of the Case:** Jose Cruz suffered irreparable and permanent brain damage caused by hypoxic ischemic encephalopathy incurred during his birth on September 16, 1992 at West Volusia Memorial Hospital. Jose's parents and natural guardians are Nelida Cruz and Jose Alberto Cruz, Sr. The claimant has extensive and permanent mental and physical damage and will require total care and treatment for the remainder of his life.

SM: \_\_\_\_\_ SD: \_\_\_\_\_ Date: \_\_\_\_\_  
Thomas R. Cooper Stephanie Olin Birtman

# C. PROOF OF PUBLICATION FOR A LOCAL CLAIM BILL

## The News-Journal

Published Daily and Sunday  
Daytona Beach, Volusia County, Florida

1107

State of Florida,  
County of Volusia:

Before the undersigned authority personally appeared  
Bryan P. Stephens

who, on oath says that he is.....  
Classified Advertising Manager

of The News-Journal, a daily and Sunday newspaper, published  
at Daytona Beach in Volusia County, Florida; that the  
attached copy of advertisement, being a

Notice of Publication

in the matter of Claimants Passage of a  
Bill for Medical Malpractice

in the ..... Court, was published

in said newspaper in the issues.....  
July 19, 1998

Affiant further says that The News-Journal is a newspaper  
published at Daytona Beach, in said Volusia County, Florida,  
and that the said newspaper has heretofore been continuously  
published in said Volusia County, Florida, each day and  
Sunday and has been entered as second-class mail matter at the  
post office in Daytona Beach, in said Volusia County, Florida,  
for a period of one year next preceding the first publication of  
the attached copy of advertisement; and affiant further says  
that he has neither paid nor promised any person, firm or  
corporation any discount, rebate, commission or refund for the  
purpose of securing this advertisement for publication in the  
said newspaper.

Sworn to and subscribed before me

this 20th day of July

A.D. 1998



CAROL A. TAYLOR  
Notary Public, State of Florida  
My Comm. Expires Apr. 13, 1999  
Comm. No. CC 452734

**LEGAL ADVERTISEMENT**  
**NOTICE OF PUBLICATION**  
**TO WHOM IT MAY CONCERN:**  
Notice is hereby given of intention  
to apply to the 1998 session of the  
Florida Legislature for passage of an  
act for the relief of Jose Cruz, Sr., Ne-  
lida Cruz and Jose Cruz Jr., provid-  
ing an appropriation to compensate  
them for damages arising out of a  
medical malpractice which occurred  
on September 14, 1992, during the  
birth of Jose Cruz, Jr. at the West  
Volusia Memorial Hospital in Volu-  
sia County, Florida; and providing an  
effective date.  
Ronald S. Gilbert, Esquire  
Morgan, Collins & Gilbert, P.A.  
20 North Orange Ave.  
Suite 1600  
Orlando, FL 32801  
Florida Bar No.: 375421  
Attorney for Plaintiffs  
Lester July 19, 1998 11

## **D. EXAMPLE OF A GENERAL CLAIM BILL**

### **ENROLLED**

1999 Legislature

SB 20, 1st Engrossed

An act relating to the Florida Department of Transportation; providing for the relief of Patricia D. Baker; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Florida Department of Transportation; providing an effective date.

WHEREAS, on December 1, 1987, after returning from an out-of-state vacation, Patricia D. Baker, a resident of New Port Richey, Pasco County, Florida, stopped at the Florida Welcome Center on Highway I-75 in Jennings, Hamilton County, Florida, and

WHEREAS, while using the ladies restroom facilities at the Welcome Center, Mrs. Baker was raped and robbed at knifepoint, and

WHEREAS, Mrs. Baker's assailant entered the restroom easily and committed the crime unimpeded, and

WHEREAS, Patricia D. Baker was emotionally and physically injured by this occurrence, and

WHEREAS, the incident and injuries sustained on December 1, 1987, formed the basis of a legal action by Patricia D. Baker and her husband against the Department of

Transportation alleging negligence in failing to provide adequate security at the Welcome Center rest area, negligent design of the Welcome Center complex, and failure to warn of known dangerous conditions, and

WHEREAS, evidence presented at trial through testimony of witnesses and records of state and local agencies demonstrated that because of the Welcome Center's location and the large number of persons frequenting I-75 in Jennings, criminal activity there was a special concern that was well documented, and

WHEREAS, within the preceding 3 years, criminal incidents at the Welcome Center and nearby state-maintained rest areas were numerous and included armed robbery, theft, burglaries, and attempted murder and sexual battery, and

WHEREAS, Patricia D. Baker presented at trial Florida Department of Transportation memoranda that demonstrated that the Department of Transportation was aware of the serious criminal activity and security problems of each rest area, and

WHEREAS, Patricia D. Baker presented at trial expert witness testimony showing that the Department of Transportation was negligent in designing the restrooms at the Welcome Center, and

WHEREAS, following trial in this case the jury awarded Patricia D. Baker \$450,760.90, which was reduced by the court to \$445,313.42, and her husband received an award of \$100,000, and

WHEREAS, prior to trial the Bakers served upon the Florida Department of Transportation a demand for judgment pursuant to section 768.79, Florida Statutes, offering to

settle for a reasonable amount of \$190,000, an offer that was rejected by the Florida Department of Transportation, and

WHEREAS, following trial and the jury determination, the trial judge on January 27, 1997, concluded and entered Final Judgment for the Bakers awarding reasonable costs of \$21,574.39, and in addition awarded the Bakers \$136,335.85 in reasonable attorney's fees, and

WHEREAS, the Bakers have received from the Department of Transportation \$100,000 each in satisfaction of the awarded Final Judgment as provided by the statutory limits of liability set forth in section 768.28, Florida Statutes, and

WHEREAS, the unpaid Final Judgment of Patricia D. Baker is \$345,313.42 plus \$21,574.39 in reasonable costs and \$136,335.85 in reasonable attorney's fees, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The Executive Office of the Governor is directed to transfer existing spending authority or to establish spending authority from unappropriated trust fund balances in the Department of Transportation in the amount of \$443,223.66 to a new category titled "Relief: Patricia D. Baker" as relief for injuries and damages sustained.

Section 3. The Comptroller is directed to draw his warrants in favor of Patricia D. Baker in the aggregate sum of \$443,223.66 upon funds in the Department of Transportation in the State Treasury, and the State Treasurer is directed to pay

that amount out of those funds, as follows: The sum of \$263,223.66 is to be paid by July 1, 1999, which includes \$105,313.42 toward the unpaid amount of the final judgment in favor of Patricia D. Baker, plus \$21,574.39 in reasonable costs and fees and \$136,335.85 in reasonable attorney's fees; and an additional \$180,000 is to be paid in nine equal annual installments of \$20,000 apiece beginning July 1, 2000, and continuing through July 1, 2008.

Section 4. This act shall take effect upon becoming a law.

## **E. EXAMPLE OF A SPECIAL MASTER REPORT**

Florida House of Representatives  
Committee on Claims  
Claim Bill Report

February 10, 1999

### **SPECIAL MASTER'S FINAL REPORT - AMENDED**

The Honorable John Thrasher  
Speaker, The Florida House of Representatives  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **HB 283** - Representative Fiorentino  
Relief of Patricia D. Baker (SB20)

**THIS IS A \$503,223.66 EXCESS JUDGMENT CLAIM FOR NEGLIGENCE OF THE FLORIDA DEPARTMENT OF TRANSPORTATION IN FAILING TO PREVENT THE ASSAULT AND RAPE OF PATRICIA D. BAKER IN THE LADIES BATHROOM AT THE I-75 FLORIDA WELCOME CENTER IN HAMILTON COUNTY. THE FINAL JUDGMENT RENDERED BY THE CIRCUIT COURT IN PINELLAS COUNTY AWARDED \$445,313 TO MRS. BAKER, \$100,000 TO HER HUSBAND MR. BAKER, COSTS IN THE AMOUNT OF \$21,574 AND ATTORNEY FEES IN THE AMOUNT OF \$136,336. THE DEPARTMENT OF TRANSPORTATION HAS ALREADY PAID \$100,000 TO EACH OF THE BAKERS.**

#### **FINDINGS OF FACT:**

Mrs. Baker and her husband were traveling south on I-75 on December 1, 1987. They stopped at the Florida Welcome Station near Jasper, Florida, in Hamilton County, at about 12:30 a.m. to use the restrooms. Mr. and Mrs. Baker entered their respective restroom facilities. Mrs. Baker entered a stall and used the facility. As she was exiting the stall, a male with a knife stepped out of an adjacent stall, forced her to return to a stall, stole her money and jewelry, forced her to undress and raped her. During the attack, Mrs. Baker was cut behind her left ear. Mrs. Baker was forced to lie on the floor until the assailant left the restroom, at which time she dressed, left the restroom

and approached her husband who was waiting at the front of the restrooms. Her husband, with the assistance of the maintenance attendant attempted to find the attacker and called the local sheriff who responded to the call.

As a result of the attack, Mrs. Baker was seen by the emergency room staff of the hospital in Hamilton County. She was released and returned to Tampa where Mr. Baker took her directly to the hospital. She was examined by her physician and released. Later that night she became hysterical and her physician admitted her to the hospital for 2 weeks to deal with the trauma. Mrs. Baker has continued sporadically in the care of a psychiatrist and has been diagnosed with Post Traumatic Stress Disorder. In addition, Mrs. Baker suffers from pancreatitis which was a preexisting condition. The pancreatitis causes Mrs. Baker to become violently ill and has been diagnosed as a terminal illness with no prognosis of remaining life span. Mrs. Baker testified she has continued to suffer from emotional distress as a result of the attack, that the attack exacerbated the pancreatitis, and that because of the attack, she has been unable to resume a normal marital relationship with her husband. She and her husband are currently separated and Mrs. Baker is seeking a divorce.

At the time of this incident the Florida Welcome Center was owned by the Florida Department of Transportation (DOT) and operated jointly by DOT and the Department of Commerce (DOC). The DOC operated and staffed the actual welcome center and the DOT operated and maintained the restrooms, vending machine areas, and the picnic and parking areas. The maintenance of the area had been contracted by the DOT to Triangle Maintenance, Inc. This firm was retained to provide round the clock maintenance services for the facility with one or more attendants required to be on the premises at all times. One male attendant who was working the 12:00 to 8:00 a.m. shift at the time of the attack was not working in or around the women's restroom and thus did not observe the assailant. Security for the rest area was provided by the Hamilton County Sheriff, and the Florida Highway Patrol. These officers testified at trial that they tried to patrol the rest area two or three times a night.

The restrooms are constructed with the women's restrooms containing two complete facilities which are each on either side of a main hallway. At any given time one side is closed for cleaning while the other side is in use. Upon entering the main door of the facility, located at one end of the hallway, a patron turns right or left to enter the door of the open side of the restroom area. Each side of the restroom contains five or six stalls with the sinks at the far end and the exit beyond the sinks. The exit door from the open side enters the hallway at the other end of the hallway from the entrance door. A patron walks back up the hallway to the main exit door which is adjacent to the entry door.

At the end of the hall, near the exits from the open restroom, there is a fire door for emergency exit of the building. At the time of this incident, the fire door did not have a handle on the outside of the door but could be opened by pulling on the louvered portion of the door. The fire exit door was not equipped with a lock. The interior and exterior of the facility is well lit at night.

No evidence was presented as to how the assailant entered or exited the women's restroom facility.

Approximately one million people visit this welcome center each year.

The plaintiffs originally joined Triangle Maintenance, Inc., as a defendant in this case and subsequently settled with Triangle Maintenance for \$60,455. It is the claimant's position that this is not a collateral source and that the jury verdict should not be reduced by this amount.

#### CONCLUSIONS OF LAW:

##### Claimant's Argument:

As a property owner who invites the public onto welcome center and rest area property, the DOT has a duty to protect the public from hidden dangerous defects in the facility, and from foreseeable harm.

The restroom facility was improperly designed so as to contain hidden dangerous defects about which the DOT failed to warn the public and the defects were the proximate cause of the injury to Mrs. Baker. These included an emergency exit at the back of the facility

which could be entered from the outside, a restroom facility which could only be exited by passing through the entire facility once the entrance door had closed, areas around the building in which an assailant could easily hide, and only a low fence protecting the facility from persons entering on a road behind the facility.

The DOT had a duty to provide security to protect Mrs. Baker since the attack was foreseeable based on past incidents at the Hamilton County welcome center as well as past incidents at the rest areas located in Madison, Suwannee, Columbia, and Alachua counties. During the 3 years prior to the incident in question, there had been 14 reported criminal incidents at the Hamilton County welcome center. Of those incidents three were between passengers of the same vehicle, six involved stolen wallets or purses either in the restroom or parking lot and one involved items stolen from a vehicle topper. There was only one incident of armed robbery in the men's restroom at the welcome center and there were no reported rapes or attempted rapes. The reports produced at trial did include a robbery and stabbing at the Georgia Welcome Center located on I-75 at the Florida/Georgia line.

At rest areas in the five surrounding counties there had been approximately 160 reported criminal incidents which included two incidents reported as rapes, two attempted murders, 27 solicitation or prostitution charges, and the remaining incidents ranged from strong armed robbery to vandalism. Additionally, the DOT knew of the criminal activity and that in memorandums to the Secretary of District II, staff overseeing the Payne's Prairie rest areas in Alachua County recommended full time, on- premises security, or that the rest areas be closed.

Based on these incidents the claimant contended that the security provided by the Hamilton County Sheriff's Office and by the Florida Highway Patrol was inadequate; the DOT failed to coordinate with or seek assistance from either law enforcement agency to provide adequate security; the DOT knew criminal incidents were occurring; and, the DOT should have taken action to provide security or warn of the dangerous condition.

The DOT's Argument:

The DOT argued that sovereign immunity barred

recovery by the claimant because the design of the restroom facility is a planning level function for which recovery is barred and there were no dangerous hidden defects which contributed to this accident which would require action by the DOT. Further, there was no evidence that any claimed defect contributed to the attack on Mrs. Baker because it is unknown how the assailant entered the rest area or the restroom facility and there is no evidence that Mrs. Baker attempted to exit the facility and was unable to do so.

As to the duty to provide security, the DOT argued that the decision to provide security at a rest area is a planning level function and a law enforcement function for which sovereign immunity bars recovery and further, that the incident was not foreseeable. There had been no previous report of rape or attempted rape in the welcome center, and the 14 incidents reported at the welcome center, none of which were during the late night time period, were not of a nature that would provide notice that a rape may occur. The DOT further claimed that the information regarding incidents at the rest areas in the other four counties, which included the Payne's Prairie (Alachua County) rest areas some 98 miles away, and the DOT's knowledge of that criminal activity was improperly admitted to show the foreseeability of Mrs. Baker's rape. The DOT argued that the other incidents were predominantly of a different character and were so far removed from the welcome center that the DOT could not foresee the possibility of this attack on Mrs. Baker. The DOT further stated that the memos from the employee who had oversight of the Alachua County rest areas at the time of the attack, referred to by claimant above, concerned only criminal activity and prostitution problems at the Paynes Prairie rest area which was a unique problem for the DOT. The author of the memos was not present at trial but did testify at the Special Masters' hearing and clarified that his suggestions and comments referred only to the Alachua County rest areas and not all rest areas in the state as was alluded to be the claimant at trial.

The DOT also claimed that the Florida Highway Patrol and the Hamilton County Sheriff's Offices provided security as part of their duty to patrol the highways. The Patrol is charged by statute with patrolling the state highways, maintaining public peace by preventing

violence on the highways, and enforcing laws regulating public safety. The rest areas and welcome centers are part of the highway system the Florida Highway Patrol is charged with patrolling.

Jury Verdict:

The Pinellas County jury found:

The attack on Mrs. Baker was reasonably foreseeable by the DOT.

The legal causes of Mrs. Baker's injury were the DOT's negligence in failing to provide adequate security and in the design of the building.

However, the jury also found that the DOT did not have a duty to warn Mrs. Baker of the dangers at the facility.

Judgment Amount:

Mr. Baker was awarded \$100,000 for his loss of services, comfort, society and attention.

Mrs. Baker was awarded a total of \$456,759.90:  
\$7,680 for lost property,  
\$8,079.90 for past medical costs,  
\$40,000 for future damages over 10 years with a present value of \$35,000,  
\$200,000 for past pain and suffering, and  
\$200,000 for future pain and suffering.

The final judgment was entered January 28, 1997. An amended judgment was entered February 24, 1997, to reduce the award to Mrs. Baker by collateral sources. The amended final judgment awarded total damages to Mrs. Baker in the amount of \$445,313.85. Mr. Baker's award of damages remained at \$100,000.

The reduction of the judgment did not include the amount, approximately \$60,000, received from the Triangle Maintenance, Inc., the DOT contractor who settled with Mrs. Baker prior to the trial and who was not a party in the lawsuit at trial.

The DOT appealed to the Second District Court of Appeals and on December 31, 1997, the court, per curiam, affirmed the judgment.

General Conclusions:

The DOT requests the Legislature to overturn the jury verdict which was affirmed by the Second District Court of Appeals based on the same legal arguments which were made at trial and to the appellate court and which were rejected by both courts. No significant additional argument was made to the Special Master which would dictate that the Legislature should overturn the findings of the court on points of law argued in this case.

The DOT did not dispute the amount of the damage award on appeal except as to the wording of the verdict form regarding what could be considered in determining future damages. At the hearing on this matter held by the Special Master, DOT did not contest the damage amount.

ATTORNEY'S FEES:

The trial court awarded attorney fees, costs and post judgment interest pursuant to the offer of judgment provisions of §768.79, F.S. The award of fees was based on a judgment 25 percent greater than the demand for judgment rejected by the DOT of \$190,000. The court determined a reasonable attorney fee calculated in accordance with Supreme Court guidelines to be \$974,512.50 for the 1,835.9 hours worked by the claimant's attorney. However, the fee awarded was reduced by the court to 25 percent of the judgment or \$136,335.85 in accordance with the 25 percent of judgment limitation on attorney fees in §768.28 (8), F.S. Reasonable costs were determined to be \$21,574.39.

The DOT appealed the award of fees and costs pursuant to the offer of judgment statute. The DOT alleged the rejection of the claimant's offer was appropriate because this was a test case on the issue of whether the DOT would be liable for not providing security in rest areas. Additionally, DOT on appeal argued that there was no specific waiver of sovereign immunity in §768.28, F.S., or §768.79, F.S., applicable to the payment of fees and costs referred to in the offer of judgment statute.

On appeal the claimant argued that the award of fees and costs was mandated by §768.79, F.S., since the jury award exceeded the demand for judgment by more than 25 percent. Claimant also argued that this was a test case and a case with close questions of fact and

law and, as such, could be considered by the court in determining a reasonable attorney fee in addition to looking at other issues such as the apparent merit of the claim, and the amount of additional delay and expense the person making the offer would reasonably be expected to incur if the litigation is prolonged.

The awarding of attorney fees equal to 25 percent of the judgment, costs, post judgment interest on the fees and costs, and the amended judgment was per curiam affirmed by the Second District Court of Appeals. The court applied the offer of judgment statute to the state and concluded that any amount exceeding the statutory cap of \$200,000 would be payable only through a claim bill. Pinellas Co., Board of County Commissioners v. Bettes, 659 So.2d 1365 (Fla. 2d DCA 1995).

#### CONCLUSIONS:

The offer of judgment statute in §768.79, F.S., is the manner the Legislature has chosen to assure that litigants carefully assess the merits of a case. This statute provides that if an offer of judgment or demand for judgment is made and rejected and the final judgment exceeds that offer by 25 percent or more that the party rejecting the offer or demand is liable for attorney fees and costs of the other party. The courts have applied this statute in favor of the state when opposing parties have rejected offers of judgment or demands for judgment from the state. Additionally, the courts have applied this statute to the state up to the amount of the statutory limits on waiver of sovereign immunity and have held that trial courts may enter judgments for damages, costs, and fees in excess of the \$200,000 cap or waiver of sovereign immunity. Those amounts in excess of the cap may only be paid upon action of the Legislature.

The DOT argued in this case that the rejection of a \$190,000 offer of judgment was not unreasonable because it was at the limit of the agency's liability and thus the agency could not be liable for more than the \$200,000 cap, regardless of the outcome of the jury verdict, without legislative action.

Since the Legislature gives great deference to jury verdicts in the claim bill process, it is incumbent on agencies to consider the full implications of the liability

of the state in assessing a claim, not just the direct agency liability. Further, agencies do settle cases in excess of the cap by agreeing for the plaintiff to present a claim bill. The offer of judgment statute should be given effect so as to require an agency to assess the full potential liability of the state in assessing a claim rather than only that liability up to the statutory cap for waiver of sovereign immunity.

**INTEREST:**

Under the sovereign immunity doctrine, governmental agencies cannot pay any judgment in excess of the statutory cap until passage of a claim bill. Therefore, it has been legislative policy not to award interest on money awarded that exceeds the statutory cap.

The DOT paid the \$200,000 when the appeal of the judgment was denied. Therefore, no post judgment interest is due.

**COSTS:**

The jury awarded a total of \$21,574.39 for costs in the final judgment.

**RECOMMENDATIONS:**

I recommend the bill be amended to provide for the payment of **\$443,223.66**, which represents the amount set forth in the bill less the \$60,000 already received from the Triangle Maintenance, Inc., as a settlement for the same incident, to the claimant by the Department of Transportation as follows:

1. **\$263,223.66**, to be paid by July 1, 1999, which sum includes: \$105,313.42 toward the unpaid amount of the final judgment in favor of Patricia D. Baker; \$21,574.39 in costs; and, \$136,335.85 in attorney fees which is amount is 25 percent of the final judgment.
2. In light of Mrs. Baker's health problems related to her pancreatitis condition, the remaining **\$180,000**, which represents that portion of the final judgement which was awarded for future pain and suffering, should be paid to Mrs. Baker in 9 equal annual installments of \$20,000 each beginning July 1, 2000 and continuing through July 1, 2008, with reversion to the state of any remainder should Mrs. Baker die prior to the final payout.

Accordingly, I recommend HB 283 be reported  
FAVORABLY AS AMENDED.

Respectfully submitted,

John A. Topa  
House Special Master

cc: Representative Heather Fiorentino  
Senator John Grant  
Dorothy Johnson, Senate Special Master

## **F. TEXT OF SENATE RULE 4.81**

### **4.81—Claim bills**

a. Claim bills are of two types: excess judgment claims filed pursuant to section 768.28(5), Florida Statutes, and equitable claims filed without an underlying excess judgment.

b. All claim bills shall be filed with the Secretary of the Senate on or before August 1 in order to be considered by the Senate during the next regular session. A motion to introduce a claim bill notwithstanding the claim bill filing deadline, shall be referred to the Committee on Rules and Calendar for a hearing and a determination as to the existence of an emergency reasonably compelling consideration of a claim bill notwithstanding the claim bill filing deadline. A House claim bill which does not have a Senate companion claim bill timely filed under this rule shall not be considered by the Senate. Any motion to consider a House claim bill which does not have a timely filed Senate companion bill shall be referred to the Committee on Rules and Calendar for a hearing and a determination as to the existence of an emergency reasonably compelling consideration of a claim bill notwithstanding the claim bill filing deadline. The determination by the Committee on Rules and Calendar shall be reported back to the Senate. Upon a determination by the committee that an emergency does exist, the motion may be considered by the Senate and must be adopted by at least two-thirds (2/3) vote of those present.

c. All claim bills shall be referred by the President to one or more committee(s) for review. If the President determines that a de novo hearing is necessary to determine liability, proximate cause, and damages, a Special Master shall conduct such hearing pursuant to reasonable notice. Discovery procedures shall be governed by the Florida Rules of Civil Procedure and the Florida Evidence Code, as applicable. The Special Master shall administer an oath to all witnesses, accept relevant documentary and tangible evidence properly offered, tape record the proceedings, and prepare a final report containing findings of fact, conclusions of law and recommendations no later than December 1. The report shall be signed by the Special Master who shall be available, in person, to explain his or her report to the committees and to the Senate.

d. On receipt of the Special Master's report and recommendations, if any, the Secretary shall, under the President's initial reference, deliver each claim bill with the report attached, to the committee or committees of reference.

e. Stipulations entered into by the parties are not binding on the Special Master, the Senate or its committees.

f. The hearing and consideration of a claim, any element of which is pending in litigation, shall be held in abeyance until all judicial activity thereon, including any appellate proceedings, shall have come to rest.

## **G. TEXT OF SENATE RULE 3.3**

### **3.3—Form of local bills**

As required by Article III, Section 10 of the Constitution, all local bills must either embody provision for ratifying referenda (stated in the title as well as in the text of the bill) or be accompanied by an affidavit of proper advertisement. Forms of affidavit may be obtained from the Secretary of the Senate. All local bills that require publication shall, when introduced, have proof of publication securely attached to the original copy of the bill and the words "Proof of Publication Attached" clearly typed or stamped on the Senate side of the bill jacket or cover, or the same shall be rejected by the Secretary.

## **H. TEXT OF HOUSE RULE 44**

### **44. Local Bills**

(a) If a committee determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, that committee shall not report the bill to the Clerk. However, if a local governing body would be required to call a referendum to enact the substance of a local bill into law, the committee may report the local bill.

(b) If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill.

(c) All local bills, including local claim bills, must either, as required by Section 10 of Article III of the Florida Constitution, embody provisions for a ratifying referendum (stated in the title as well as in the text of the bill) or be accompanied by an affidavit of proper advertisement, securely attached to the original bill ahead of its first page.

(d) No local bill originating in the House, except a local bill introduced by a standing committee, shall be given first reading unless filed with the Clerk by 12:00 noon of the first day of the regular session.

## **I. TEXT OF ARTICLE X, SECTION 13, FLORIDA CONSTITUTION**

### **ARTICLE X. MISCELLANEOUS**

#### **§ 13. Suits against the state**

Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

## **J. TEXT OF SECTION 11.02, FLORIDA STATUTES**

11.02 Notice of special or local legislation or certain relief acts.--The notice required to obtain special or local legislation or any relief act specified in s. 11.065 shall be by publishing the identical notice in each county involved in some newspaper as defined in chapter 50 published in or circulated throughout the county or counties where the matter or thing to be affected by such legislation shall be situated one time at least 30 days before introduction of the proposed law into the Legislature or, there being no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties where the matter or thing to be affected by such legislation shall be situated. Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution. Notice of any relief act specified in s. 11.065 shall state the name of the claimant, the nature of the injury or loss for which the claim is made, and the amount of the claim against the affected municipality's revenue-sharing trust fund.

History.--s. 1, ch 3708, 1887; RS 66; GS 67; RGS 78; CGL 94; s. 1, ch. 13791, 1929; s. 2, ch. 69-52; s. 5, ch. 69-216; s. 1, ch. 78-302; s. 1, ch. 78-307; s. 2, ch. 96-318.

## **K. TEXT OF SECTION 11.021, FLORIDA STATUTES**

11.021 Evidence of publication of notice.--The evidence that such notice has been published shall be established in the Legislature before such bill shall be passed, and such evidence shall be filed or preserved with the bill in the Department of State in such manner

as the Legislature shall provide.

History.--Former s. 21, Art. III of the Constitution of 1885, as amended; converted to statutory law by s. 10, Art. XII of the Constitution as revised in 1968; ss. 10, 35, ch. 69-106; s. 3, ch. 96-318.

## **L. TEXT OF SECTION 11.03, FLORIDA STATUTES**

11.03 Proof of publication of notice.--

(1) Affidavit of proof of publication of such notice of intention to apply therefor, may be made, in substantially the following general form, but such form shall not be exclusive:

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Before the undersigned authority personally appeared \_\_\_\_\_, who on oath does solemnly swear (or affirm) that she or he has knowledge of the matters stated herein; that a notice stating the substance of a contemplated law or proposed bill relating to  
(here identify bill)

has been published at least 30 days prior to this date, by being printed in the issues of (here state day, month and year of issue or issues) of the \_\_\_\_\_, a newspaper or newspapers published in \_\_\_\_\_ County or Counties, Florida (or) there being no newspaper, by being posted for at least 30 days prior to this date at three public places in \_\_\_\_\_ County or Counties, one of which places was at the courthouse of said county or counties, where the matter or thing to be affected by the contemplated law is situated; that a copy of the notice that has been published as aforesaid and also this affidavit of proof of publication are attached to the proposed bill or contemplated law, and such copy of the notice so attached is by reference made a part of this affidavit.

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, (year)  
, by (name of person making statement) .

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

(2) Such affidavit of proof of publication shall be attached to the contemplated law when it is introduced into the Legislature. A true copy of the notice published or posted shall also be attached to the bill when introduced, but it shall not be necessary to enter said published or posted notice, or proof thereof, in the journals. The fact that such notice was established in the Legislature shall in every case be recited upon the journals of the Senate and of the House of Representatives, and the notice published and affidavit of publication thereof shall accompany the bill throughout the Legislature and be preserved as a part thereof in the Department of State.

History.--s. 2, ch. 3708, 1887; RS 67; GS 68; RGS 79; CGL 95; s. 1, ch. 13791, 1929; s. 1, ch. 21635, 1943; ss. 10, 35, ch. 69-106; s. 6, ch. 95-147; s. 11, ch. 98-246.

## **M. TEXT OF SECTION 11.065, FLORIDA STATUTES**

11.065 Claims against state; limitations; notice.--

(1) No claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Any claim presented after this time of limitation shall be void and unenforceable.

(2) All relief acts of the Legislature shall be for payment in full. No further claims for relief shall be submitted to the Legislature in the future.

(3) Notice shall be given as provided in s. 11.02 prior to the introduction of any relief act which provides for the payment of the claim from funds scheduled for distribution to a

municipality from the revenue-sharing trust fund for municipalities.

History.--ss. 1, 2, ch. 26953, 1951; s. 25, ch. 74-382; s. 1, ch. 78-307.  
Note.--Former s. 95.37.

## **N. TEXT OF ETHICS OPINION 69-009**

### Opinion 9

#### ATTORNEY-LEGISLATOR---FILING OF CLAIMS BILL

The question presented to the Committee was whether a legislator would be in conflict with his duties when he filed a claims bill when he or his partner would receive a fee from the claimant.

Chapter 67-469, Florida Statutes provides in its Declaration of Policy: "...no member of the legislature...shall have any interest financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity...which is in substantial conflict with the proper discharge of his duties in the public interest..."

Under Rule 5.9-A Member of the House of Representatives shall not directly or indirectly receive or appear to receive any compensation for any service rendered or to be rendered by him or others where such activity is in conflict with his duty as a Member of the House of Representatives.

It is the opinion of the Committee that it is a conflict of interest for a member, his law partner or his firm to receive a fee or to participate in sharing any fee derived from claimant cases.

The Committee believes that the test is whether or not the legislator or his law partner or his law firm would receive a fee and that if a fee is to be received by a legislator, his law partner or his law firm it would be improper for the legislator to file a claims bill.

John J. Savage  
Chairman

*(Journal, House of Representatives, 1969, May 2, page 317)*

## **O. TEXT OF ETHICS OPINION 71-016**

### Opinion 16

#### ATTORNEY-LEGISLATOR---PARTNER FILING CLAIMS BILL

The question presented to the Committee on House Administration and Conduct by a Member of the House of Representatives was whether or not it would constitute a conflict of interest if the law partner of the Member caused to be introduced a claims bill on behalf of a client.

It was the Opinion of the Committee that the introduction of a claims bill by the law partner of a Member, particularly if a fee was involved, would constitute a conflict of interest on the part of the Member. It is well settled that every member of the law firm is the agent of all other members of the firm. The introduction of a claims bill would necessarily require lobbying on behalf of the bill. The Florida Bar Association in two Opinions, 67-5 and 67-5 Supplement, has ruled that a Member of the Legislature would violate Canon 6 if a legislator was a member of a firm active in lobbying in the Legislature even though the legislator did not participate in the lobbying fee, and even though the legislator disqualified himself in voting on the proposal for which the lobbying service was rendered, in this matter the claims bill.

The Committee on Standards and Conduct of the House of Representatives rendered an Opinion during the 1967 session of the House under Rule 5.9 that it was a conflict of

interest for a Member, his law partner, or his law firm, to receive a fee and to participate in sharing any fee derived from claimant cases.

Therefore, in view of the ruling of the Florida Bar Association, and the previous ruling of this Committee, it appears that there would be a conflict on the part of the Member if there was introduced, or caused to be introduced, a claims bill by his law partner.

George Firestone  
Chairman

*(Journal, House of Representatives, 1971, February 4, page 119)*

## P. TEXT OF GAMBLE V. WELLS, 450 So.2d 850 (Fla. 1984)

Charlotte I. GAMBLE, as Guardian of the Property of Cynthia  
Leigh Gamble, Appellant/Cross-Appellee,  
v.  
Ted L. WELLS, Appellee/Cross-Appellant.

No. 63768.

450 So.2d 850  
Supreme Court of Florida.  
May 17, 1984.

Cross appeals were taken from a decision of the Circuit Court, Hillsborough County, Benjamin C. Sidwell, J., which awarded attorney \$50,000 for services rendered which led to passage of a 1980 legislative private relief act appropriating \$150,000 to his client but limiting his recovery to \$10,000. The District Court of Appeal, 436 So.2d 173, declared limitation on the attorney fee unconstitutional, and guardian of child awarded the \$150,000 appealed. The Supreme Court, Alderman, C.J., held that attorney fee limitation was a constitutionally permissible exercise of legislative authority and did not constitute an impairment of contractual obligations proscribed by the State Constitution.

Reversed and remanded with directions.

Shaw, J., concurred in result only.

- > 1. ATTORNEY AND CLIENT K> 131  
45 ----  
45IV Compensation  
> 45k131 Statutory regulations.

[See headnote text below]

- > 1. CONSTITUTIONAL LAW K> 146  
92 ----  
92VII Obligation of Contracts  
92VII© Contracts of Individuals and Private Corporations  
> 92k146 Contracts for services.

Fla. 1984.

Limitation of attorney fees to \$10,000, contained in private relief statute awarding \$150,000 in damages to child injured while in the custody of the Department of Health and Rehabilitative Services, was a constitutionally permissible exercise of legislative authority and did not constitute an impairment of contractual obligations proscribed by the State Constitution, despite fact that attorney had contracted to take case for a 33 1/3 percent contingency fee. Laws 1980, ch. 80-448, Sec. 1 et seq.; West's F.S.A. Const. Art. 1, Sec. 10.

- > 2. STATES K129  
360 ----  
360IV Fiscal Management, Public Debt, and Securities  
> 360k129 Appropriations.

Fla. 1984.

In seeking to obtain relief, for child injured while in the custody of the Department of Health and Rehabilitative Services, by means of a private relief act, the child's attorney was not in a position to demand that the legislature grant compensation to the child, but could only request the legislature to grant the compensation sought; the legislature, as a matter of grace, could allow compensation, decide amount of compensation, and determine the

conditions, including a limitation on attorney fee, to be placed on the appropriation. Laws 1980, ch. 80-448, Sec. 1 et seq.; West's F.S.A. Const. Art. 1, Sec. 10.

> 3. STATES K> 90

360 ----

360III Property, Contracts, and Liabilities

> 360k90 Capacity of state to contract in general.

Fla. 1984.

Parties cannot enter into a contract to bind the state and the exercise of its sovereign power.

> 4. ATTORNEY AND CLIENT K> 147

45 ----

45IV Compensation

45k146 Contingent Fees

> 45k147 Requisites and validity of contract.

Fla. 1984.

Legislature had sovereign power to place an attorney fee limitation in statute it enacted to award damages to child injured while in the custody of the Department of Health and Rehabilitative Services, and the attorney, by the terms of a contingent fee contract with a guardian of a child, could not deprive the legislature of that power. Laws 1980, ch. 80-448, Sec. 1 et seq.; West's F.S.A. Const. Art. 1, Sec. 10.

Stevan T. Northcutt of Levine, Freedman, Hirsch & Levinson, Tampa, for appellant/cross-appellee.

Howard C. Hadden, Tampa, for appellee/cross-appellant.

Hamilton D. Upchurch, Chairman, Committee on Judiciary, and Richard A. Hixson, Staff Counsel, Tallahassee, for H. Lee Moffitt, Speaker of the Florida House of Representatives, amicus curiae.

ALDERMAN, Chief Justice.

Charlotte Gamble, as guardian of the property of Cynthia Gamble, appeals and Ted Wells cross-appeals the decision of the District Court of Appeal, Second District, in *Gamble v. Wells*, 436 So.2d 173 (Fla. 2d DCA 1983). The Second District declared invalid the portion of chapter 80-448, Laws of Florida, which placed a \$10,000 limitation on the attorney's fee for Cynthia Gamble's attorney. We have jurisdiction pursuant to article V, section 3(b)(1), Florida Constitution.

> [1] We reverse the district court and hold that the attorney's fee limitation in chapter 80-448 is a constitutionally permissible exercise of legislative authority and does not constitute an impairment of contractual obligations proscribed by article I, section 10 of the Florida Constitution. > (FN1)

The facts are stated at length in the district court's decision. Briefly the pertinent facts are that commencing in 1967, while in the custody of the State Department of Public Welfare, now known as the Department of Health and Rehabilitative Services, due to the negligence of the department, Cynthia Gamble sustained crippling and disfiguring injuries. In 1975, Charlotte Gamble, who had been granted legal custody of Cynthia, contacted Ted Wells, a personal injury trial lawyer, and told him that the child had been abused and injured while in the previous legal custody of HRS. She signed a standard contingent fee contract giving Wells authority to represent Cynthia. This contract provided, among other things, that as compensation for his services Wells would be paid 33 1/3 percent of the proceeds of recovery if the matter was settled without suit, 40 percent if suit

was filed, and 50 percent if an appeal was taken from the lower court.

In 1977 Wells decided that the only possible means available for recovery would be a private relief act. He represented Cynthia before the legislature during the deliberations over the claims bill. In 1980, the legislature enacted chapter 80-448, Laws of Florida. > (FN2) Section 3 of this act specifically limits the attorney's fee to Cynthia's counsel to \$10,000.

Wells advised Gamble that he would not accept only \$10,000 and that he believed the fee limitation to be unconstitutional. Gamble refused to pay Wells more than \$10,000.

Wells then filed in probate court for attorney's fees, under the terms of the contingent fee contract for costs and for a charging lien. The probate court awarded Wells attorney's fees of \$50,000 pursuant to the contingent fee contract clause which provided for a fee of 33 1/3 percent in the event the case was settled without suit, allowed \$710.24 in costs, impressed a charging lien, and denied prejudgment interest. Declining to hold the attorney's fee limitation of the act unconstitutional, the probate court held that this language of chapter 80-448 was mere surplusage.

Upon appeal, the district court held that the attorney's fee limitation amounted to an unconstitutional impairment of a contractual obligation but that this limitation was severable from the remainder of the private relief act. It further determined, however, that Wells waived his contractual rights during his conversation with Representative Upchurch to a qualified extent by holding out for 25 percent of whatever amount the legislature awarded the child. Accordingly, the Second District directed the trial court to reduce the fee award to \$37,500, without prejudgment interest.

> [2] We disagree and hold that no contract rights were impaired by section 3 of chapter 80-448. By enacting chapter 80-448, the legislature found that a moral obligation existed on its part to redress the physical and emotional injuries of Cynthia Gamble sustained as a result of the negligence of a state agency. This voluntary recognition of its moral obligation by the legislature in this instance was based on its view of justice and fair treatment of one who had suffered at the hands of the state but who was legally remediless to seek damages. Chapter 80-448 is an act of grace to redress a wrong suffered by Cynthia at the hands of the state which is not otherwise legally compensable. In seeking to obtain relief for Cynthia by means of a private relief act, Ted Wells was not in a position to demand that the legislature grant compensation to Cynthia. He could only request that the legislature grant the compensation sought. The legislature then, as a matter of grace, could allow compensation, decide the amount of compensation, and determine the conditions, if any, to be placed on the appropriation.

> [3]> [4] Parties cannot enter into a contract to bind the state in the exercise of its sovereign power. The legislature had the power to place the attorney's fee limitation in chapter 80-448. Wells, by the terms of his contingent fee contract with Gamble, could not deprive the legislature of this power. The legislature was in no way bound to pass legislation conforming with the provisions of the prior contingent fee contract.

Accordingly, we hold that chapter 80-448 is constitutional and reverse the decision of the district court. We remand with directions that the fee award be reduced to \$10,000.

It is so ordered.

BOYD, OVERTON, McDONALD and EHRLICH, JJ., concur.

SHAW, J., concurs in result only.

> FN1. Gamble, in her brief, also contended that she was entitled to trial by jury as a matter

of right. We need not resolve that issue since Gamble's counsel at oral argument advised the Court that, if he prevailed on the first issue and the legislative limitation was upheld, he had no problem with the amount set by the legislature.

> FN2. An act for the relief of Cynthia Leigh Gamble, a minor; providing an appropriation to compensate her for personal injuries due to the negligence of the Department of Health and Rehabilitative Services; providing an effective date.

WHEREAS, on May 24, 1967, Cynthia Leigh Gamble, then 3 months old, was taken into the custody of the juvenile court of Hillsborough County and because she had no living parent was placed in the custody of the State Department of Public Welfare, and

WHEREAS, on August 6, 1967, Cynthia Gamble was admitted to Tampa General Hospital where it was discovered that she had several injuries, and

WHEREAS, on July 29, 1969, while still in the custody of the department, Cynthia Gamble was readmitted to the hospital suffering from a variety of illnesses and injuries, and

WHEREAS, on August 4, 1969, it was concluded that the child's skeletal deficiencies and changes were the result of vitamin deficiency and trauma, and

WHEREAS, the child was placed in the home of a new foster mother and has since received adequate medical care at the Crippled Children's Clinic to overcome the crippling and disfiguring injuries carelessly and negligently inflicted upon her while she was in the custody of the now Department of Health and Rehabilitative Services, and

WHEREAS, due to the negligence of the department, Cynthia Gamble has required plastic surgery and orthopedic operations and remains crippled and disfigured, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble of this act are found and declared to be true.

Section 2. The sum of \$150,000 is appropriated from funds in the State Treasury to the credit of the Department of Health and Rehabilitative Services, not otherwise appropriated, to compensate Cynthia Leigh Gamble for personal injuries.

Section 3. The Comptroller is directed to draw his warrant in favor of Cynthia Leigh Gamble to be applied to a trust fund to be administered and accounted for by her legal guardian in the sum of \$150,000 upon funds in the State Treasury to the credit of the Department of Health and Rehabilitative Services, and the State Treasurer is directed to pay the same out of such funds in the State Treasury not otherwise appropriated. The attorney's fee for counsel of Cynthia Leigh Gamble shall be limited to \$10,000.

Section 4. This act shall take effect July 1, 1980.

Approved by the Governor July 2, 1980.

Filed in Office Secretary of State July 3, 1980.

# Legislative Claim Bills

## A Practical Guide to a Potent(ial) Remedy

by D. Stephen Kahn

**L**egislative claim bills are an important, and often the exclusive, remedy for injured citizens whose claims are otherwise barred by the doctrine of governmental immunity.<sup>1</sup> A criticism of the claim bill system heard occasionally in the legislative halls is that access to this potentially potent remedy tends to be sporadic and unequal. If this is so, it is not because a majority of the members of the Florida

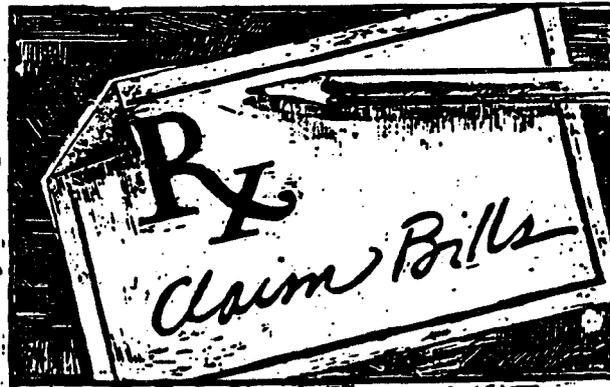
Legislature are unresponsive to the needs of deserving constituents, but largely because relatively few attorneys are familiar with the availability and nature of the remedy, or if they are, then how to go about obtaining it. This article addresses that educational need.

### Definition

A claim bill, also known as a relief bill, is a legislative measure that directs the Comptroller of Florida, or, if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. Such obligations usually arise from the negligence of officers or employees of a state or local governmental agency.<sup>2</sup> The amount awarded is based on the legislature's concept of fair treatment of a person who has suffered injury or damages, but who is without a judicial remedy or who is not otherwise legally compensable.

### Historic Background

Claim bills have their origin in the legal principle of sovereign



immunity, which in 1822, the Legislative Council of the Territory of Florida<sup>3</sup> first declared to be in force as part of the common law of England.<sup>4</sup> Under this principle, the king and his treasury were immune from suit by his subjects in his own courts. Therefore, in Florida, wrongs done by the state were to be compensable only by enactment of a legislative claim bill. In 1833, the Legislative Council enacted the first claim bill that specifically waived sovereign immu-

nity. The council devised a method to compensate Benjamin G. Thornton, one of the suppliers of labor and building materials for the territory's first permanent capitol building, for which the responsible territorial commissioner apparently refused or was unable to pay.<sup>5</sup>

Today, in keeping with modern trends, the legislature has provided that the state and its political subdivisions can be sued in court for negligence, but there is a \$100,000 per person or \$200,000 per incident limitation on the involuntary collectibility of any judgment against them.<sup>6</sup> This current waiver statute, enacted in 1973, also requires a claimant to exhaust certain administrative remedies and to satisfy other procedural requirements.<sup>7</sup> Absent an agreement to pay and insurance proceeds with which to do so, claims in excess of the statutory cap may be paid in part or in whole only by further act of the legislature.

Since 1973, claim bills have fallen into two general categories: (1) excess judgment tort claims, i.e.: the unsatisfied difference between the statutory dollar limits on collectibility and the full amount of the claimant's tort judgment against a governmental

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entity; and (2) equitable claims, i.e.: those not based on a final judgment, those based on a nontort final judgment, and those "moral" claims for which no legal cause of action exists.<sup>8</sup>

### **Sovereign Immunity and the Legislature**

Although the 1868 Constitution first authorized the legislature, by general law, to waive the state's sovereign immunity,<sup>9</sup> 100 years passed before the legislature experimented with a general waiver.<sup>10</sup> That waiver, enacted in 1969, had no dollar cap, but was limited to a one-year period and excluded claims based on the performance of discretionary functions, on civil disturbances, and for punitive damages. In 1973, after it became clear that the one-year test period caused no calamitous raid on the public treasury, the current general waiver<sup>11</sup> was enacted, with the dollar limitations described above.

Three years later, the first excess judgment claim bill was introduced in the legislature.<sup>12</sup> It involved an allegedly improperly designed and maintained roadway. The respondent city had concluded that at the

imminent jury trial, it had potential exposure greatly in excess of \$415,000. In order to limit its exposure, the city had consented to entry of judgment against it in that amount with the condition that neither the city nor its carrier would ever have to pay more than \$50,000 of it.<sup>13</sup> The legislature reduced the claim to a \$125,000 award, disregarded the limitation contained in the settlement agreement, and by law, directed the Comptroller to withhold \$125,000 from the respondent city's share of a revenue-sharing trust fund distribution and to pay it to the claimant.<sup>14</sup> Now, a dozen years later, about two-thirds of all the claim bills that are enacted are based on excess judgments, and the legislature still shows no reluctance to reduce final judgments or to alter sources of payment when warranted.

### **Recent Trends in Legislative Claims and Awards**

Although the total dollar amount sought per legislative claim bill generally has been increasing over the last 30 years because of inflation and the increase in the number of million dollar tort verdicts, the num-

ber of claim bills filed has been decreasing. In 1957, there were 68 claim bills filed of which 35 passed. In 1967, there were 61 claim bills filed of which 30 passed. In 1977, there were 60 claim bills filed of which 18 passed. In 1987, there were 24 claim bills filed of which 8 passed.

The intended effect of the current waiver of sovereign immunity has been achieved: to reduce the number of claim bills. In the most recent five-year period, the number of claim bills filed has stabilized at about 30 per year. Of all the claim bills filed in the last 10 years, an average of about 25 percent of them have passed both houses.

### **Recent Related Developments**

State agencies or subdivisions can, by statute, purchase liability insurance for whatever amount of coverage they choose in anticipation of any claim, judgment, or claim bill which they may be liable to pay pursuant to law.<sup>15</sup> Until recently, another statute provided that all governmental entities, except cities, that owned vehicles, buildings, or properties, or who "perform operations" could purchase liability insurance to cover liability for damages on ac-

count of bodily or personal injury or property damage they caused, and that immunity of the insured entity was waived to the extent of such insurance coverage.<sup>16</sup> There were similar statutes for sheriff's departments, school districts, and the state university system.<sup>17</sup>

The Florida Supreme Court, in a significant 1986 decision, held that the two statutes, when read together, waived the sovereign immunity of the state, its agencies, and political subdivisions to the extent of their insurance coverage.<sup>18</sup> Neither the otherwise valid defense that the functions that gave rise to the damages were discretionary or planning level functions, nor the statutory cap on collectibility, was applicable when there was insurance coverage.

Although governmental entities were protected in part by the \$100,000/\$200,000 cap, exposure remained to claim bill liability vastly in excess of those limits. To insure against this potential excess liability, entities could purchase insurance. In doing so, however, they had, under the 1986 interpretation of the applicable statutes, raised their general liability exposure to the extent of the limits of the insurance in effect. Ironically, prudence under one statute became imprudence under the other.

The 1987 Legislature responded to this dilemma by providing that a governmental entity would not be deemed to have waived any defense of sovereign immunity, or to have increased its limits of liability, as a result of obtaining insurance coverage for tortious acts in excess of the applicable statutory cap on collectibility.<sup>19</sup> The law further provided that a state agency or a political subdivision of the state could agree, within the limits of their existing insurance coverage, to settle and pay a claim made or a judgment rendered against it, without further action by the legislature. The probable impact of this law will be to reduce further the number of legislative claim bills filed.

### Practice Points

With the foregoing background, the following practice points are offered as a primer to guide practitioners who are entering unfamiliar waters.

**Practice Point 1:** A variety of categories of claim bills tend to get dashed on the legislative rocks: stale claims, claims on which an applicable statute of limitation has run;<sup>20</sup> claims that have received an unfavorable committee vote on the merits in a prior legislative session; claims cogniza-

ble in court but on which suit has not yet been brought; claims cognizable in court and on which suit has been brought but has not yet been concluded; claims in which laches would be a bar in court because of a claimant's inexcusable inactivity (especially when the delay unduly inhibits the agency's ability to gather evidence or witnesses necessary to preparing a defense); claims brought by a claimant who seeks special treatment as only one of a large class of similarly situated persons; claims that seek the retroactive or isolated application of or relief from a general law;<sup>21</sup>

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***The legislature generally views all claim bills, especially equitable claim bills, as a claimant's last resort. If alternative sources of recovery exist, then the alternatives must first be fully exhausted***

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certain personal injury claims that, under legislative custom, nevertheless abate upon the death of the claimant when the death is unrelated to the injury giving rise to the personal injury claim;<sup>22</sup> and finally, claims by one governmental entity against another seeking to address their intergovernmental fiscal relationship that could be handled more appropriately in the General Appropriations Bill.

Accordingly, counsel should resist giving a claimant any elevated expectations of success when the potential claim bill carries one or more of these historically fatal elements.

**Practice Point 2:** The legislature generally views all claim bills, especially equitable claim bills, as a claimant's last resort. If alternative sources of recovery exist, such as workers' compensation or third party liability coverage, then the alternatives must first be fully exhausted. If the case is still in court, then appellate review, if any, must be completed before either house will consider a claim bill on the matter. In fact, only a very small portion of tort claims

made against the State of Florida end up as legislative claim bills. The Florida Tort Claims Act<sup>23</sup> sets up a mandatory procedure for attempted administrative resolution of all tort claims against state agencies.

**Practice Point 3:** Although access to the claim bill system is easier than generally perceived, the client's claim becomes a legislative claim bill only after a member of the legislature has signed and formally introduced the claim bill. Many members of the legislature will, simply if asked, agree to sponsor a constituent's claim bill if: (1) the case is demonstrably meritorious; (2) the legislator has not already filled his or her legislative plate for the next regular legislative session; and (3) the legislator is not, as some few are, philosophically opposed to all claim bills, a situation that becomes apparent at the time of the initial inquiry to the legislator or aide.

If the legislator is philosophically opposed to claim bills, then another member of the constituent's legislative delegation can be asked, perhaps one from the other house. Legislators are generally candid about their personal philosophical position on claim bills. Counsel are admonished to tell the legislator the entire story at the outset, including the substance of any known defects in the client's case, whether or not the defense is expected to raise them.

**Practice Point 4:** After a legislator agrees to sponsor the client's claim bill, the attorney should provide the legislator with a basic package of documents that the member can submit to the Legislative Bill Drafting Office in Tallahassee. These documents should include a one or two-page narrative description of the essential facts that give rise to the claim and copies of the basic pleadings from the underlying court case, if any. It is not necessary to prepare the claim in legislative bill format. The legislator will forward the basic information to Tallahassee where a legislative staff attorney will draft the bill. Accident reports, incident or investigative reports, extensive medical and hospital records, trial transcripts, depositions, photographs, diagrams, or other items of demonstrable evidence are not necessary to submit at this initial stage. They will be needed, however, for the special master's hearing. Companion bills, which are identical bills filed in the same year in both houses, are usually not necessary.

**Practice Point 5:** If the tortfeasor is a municipality, county government, sheriff, school board, or local district, then the

claim bill will have to meet the requirements of a local bill for which the constitution<sup>24</sup> and statutes<sup>25</sup> provide special notice requirements. Unless the local bill contains a referendum provision, which they seldom do, a notice of intention must be advertised at least 30 days prior to formal introduction of the claim bill. It is the claimant's, not the sponsor's, obligation to comply with this requirement and to produce an acceptable proof of publication affidavit.<sup>26</sup> There is no precise format required for the advertisement. Most newspaper publishers can provide a sample.

Except in highly extraordinary and infrequent circumstances, the legislature rejects all requests to pay from the state's general revenue fund all or part of a claim against a local governmental entity.

**Practice Point 6:** Claim bills are no longer enacted on a courtesy basis without a hearing or a consideration of the merits. A special master's hearing, quasi-judicial in nature, is required on every claim bill by Senate Rule<sup>27</sup> and House Standing Order<sup>28</sup> after the bill is formally filed for introduction and referred by the presiding officer or committee chairman. Only in a very few cases that are the legislative equivalent

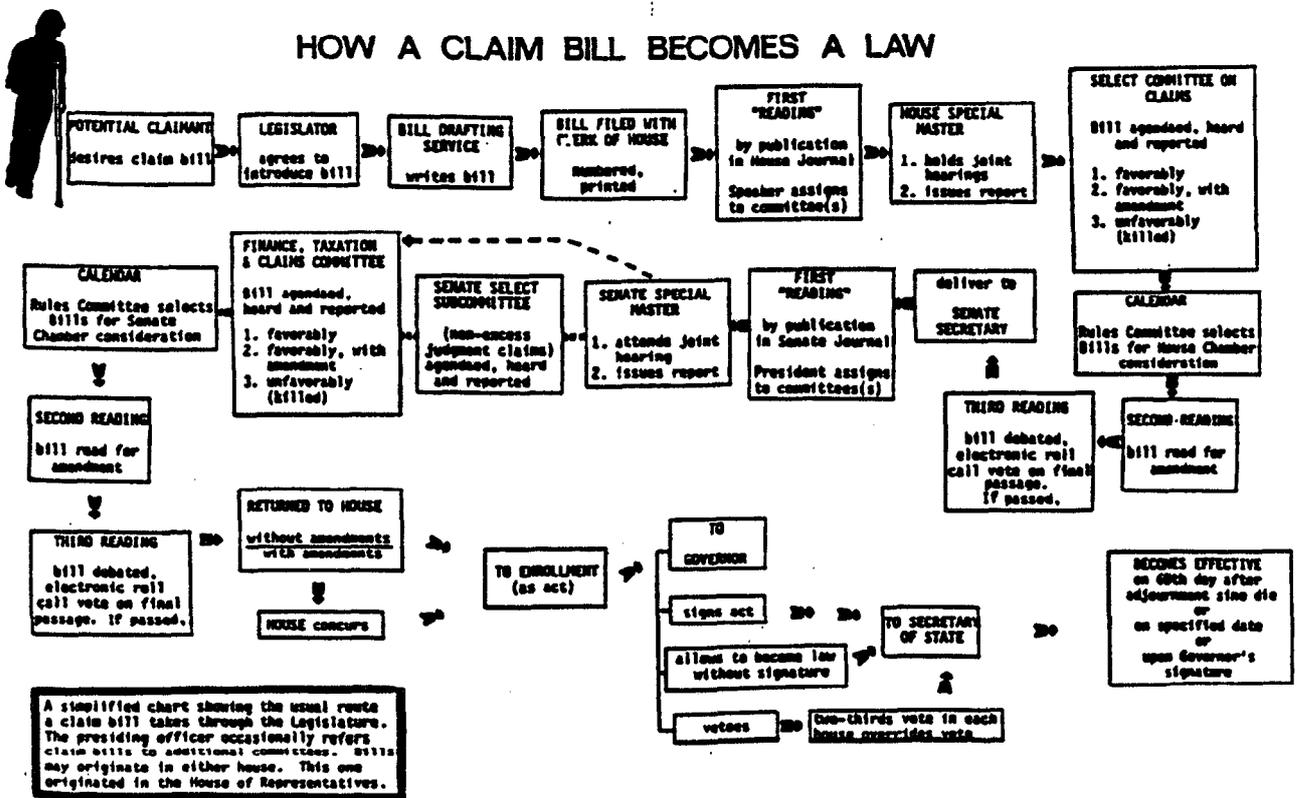
of summary or uncontested small claims, will the special master waive the fact-finding hearing requirement. The special master for the house in which the claim bill is first filed usually takes primary jurisdiction in the subsequent bicameral hearing process.

The time and place of all special masters' hearings are set by the controlling special master, usually after consultation with counsel for all parties. These hearings are usually attended also by the special master from the opposite house so that one fact-finding hearing is adequate to serve the needs of both houses. Hearings are usually held, pursuant to reasonable notice, between January 1 and April 1 of each year and, absent extraordinary circumstances, are not held during the annual 60-day regular session of the legislature. Prehearing discovery is available. Florida Rules of Civil Procedure 1.280-1.410 are used as a guide. Parties are requested to accommodate each other's reasonable discovery requests informally, without the need for legislative intervention. The special master and other appropriate legislative staff are available to assist with procedural questions or discovery problems.

A prehearing conference is usually held in each case either on a separate day, or, more commonly, just before the hearing on the merits. At this conference, motions may be made; documents and exhibits will be marked and offered into evidence; the witnesses will be identified; and the issues clarified. Stipulations of fact are encouraged. Organized, labeled, and indexed presentation folders are appreciated and are usually accepted by the special master without objection.

At the hearing, the special master requests both sides to make a brief opening statement which, along with the evidentiary portion of the hearings, are tape recorded. There is no stenographic record made. The claimant goes first, offering testimony, documents, and any physical evidence necessary to establish the case. It is always desirable to have the claimant and any principal or critical witnesses testify in person. Deposition testimony or trial records can be substituted for some witness testimony. Medical and other expert testimony can usually be presented by videotape. Witnesses are sworn and subject to cross-examination.

The respondent agency or officer then



presents a defense, following the customary order of proof. Instances of sharply conflicting eyewitness testimony and even an occasional "battle of experts" are not uncommon in the claim bill hearing process. It is the duty of each special master, independently, to weigh the testimony and to resolve the conflicts. The parties are allowed to present closing arguments, usually by subsequent written memoranda, if they so desire. Parties may supplement the record after leave to do so is given by the special master. Leave is freely given. Copies of all documents offered into evidence at the hearing or filed later with the special master must be timely served, in the customary manner, on opposing counsel.

*Practice Point 7:* Although legislative procedure requires a redetermination of liability and damages from the first dollar because the expenditure of public funds is involved, and although each claimant again has the burden of proof and the burden of going forward even if armed with an underlying judgment, negligence claims arising from verdict-based excess judgments usually are treated more generously as a class by the legislature than are other claims. There usually must be a cogent reason why a verdict-based judgment would not be paid; however, even verdict-based excess judgments may be made subject to payment structuring, payment source modification, or reduction in amount if the legislature perceives that the verdict was based on undue sympathy or prejudice, or contains elements of unwarranted general or punitive damages, whether or not so labeled. Because governmental agencies occasionally settle cases against them for reasons not directly related to the merits of the claim, consent-based judgments are scrutinized carefully by the special master, by the legislative committees, and by both houses of the legislature, to ensure that independently developed facts exist to support the judgment and to justify the award.

While only 40 percent of the claim bills filed in recent years have been based on excess judgments, excess judgment-based bills comprised two-thirds of the claim bills that have passed both houses in the same period. Of these two-thirds, the ones based on jury verdicts and shown to be otherwise meritorious, historically and statistically, have stood the best chance of passage into law.

*Practice Point 8:* After the special master's hearing is conducted, each special master prepares an independent, detailed, written report including findings of fact, a reso-

lution of conflicting testimony and evidence, conclusions of law, and advisory recommendations. Copies are provided to the sponsor of the bill and to all counsel of record, so that any counsel who desires to do so can file objections or exceptions to the report before the time of the committee hearings.

*Practice Point 9:* After the special master's hearing is concluded, claim bills, like any other legislative bills, can be lobbied through personal, telephonic, or written contact with any or all members of the legislature by any interested person including proponents, opponents, claimants, respondents, attorneys, or agents for any of them, as long as the applicable lobbying statute<sup>29</sup> and rules<sup>30</sup> are strictly complied with.

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***Once a legislative committee meeting is set, and a claim bill is agendaed, opportunity for a party or attorney to plead a case directly at that meeting is usually limited to 10 or 15 minutes per side, and even this brief opportunity is often interrupted by volleys of questions***

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*Practice Point 10:* After the special master's hearing is concluded and a report filed, each claim bill is, at the discretion of the committee chair, agendaed, considered, and then voted on by legislative committees of reference. In the Senate, it is the Committee on Finance, Taxation and Claims, and also a subcommittee thereof if the claim is an equitable claim, and any additional committee directed by the president of the Senate.

In the House of Representatives, it is the Select Committee on Claims and the House Appropriations Committee, if so directed by the speaker. Please inquire with the secretary of the Florida Senate and clerk of the Florida House of Representatives to determine the specific committee assignments given to the claim bill, because the rules and procedures governing bill references are modified from time to time.

During the often hectic concluding portions of each annual regular legislative session when claim bills are customarily con-

sidered by legislative committees, formal notice times are often truncated. It is the responsibility of each party to a claim bill or their counsel to keep track of the status of their claim bill at all times. As a courtesy, legislative staff will attempt to give the parties advance telephonic notice of the dates and times of applicable committee meetings, but it is not the legislative staff's responsibility to do so. In other words, be attentive to the daily printed calendars in both houses.

Once a legislative committee meeting is set, and a claim bill is agendaed, opportunity for a party or attorney to plead a case directly at that meeting is usually limited to 10 or 15 minutes per side, and even this brief opportunity is often interrupted by volleys of questions from committee members. In short, a full presentation should be made to the special master, not to the committee. What little time available before each committee is best spent in a very brief statement of the facts and attorney's view of the contested legal issues. A copy of the special master's report will have been furnished to each member of the committee by the committee staff director prior to the committee meeting. The special master is ordinarily called upon to make a brief appearance, to address the parties' policy arguments, and to make his own recommendations. A committee can consider any evidence, arguments, or policy matters that may be relevant or persuasive in the legislative forum, but which may have been excluded at trial because of a rule of evidence.

*Practice Point 11:* Satisfaction and releases can be a trap for the unwary. A release or satisfaction given by a claimant at the time the initial, underlying payment is received from a respondent governmental agency or its carrier should clearly address the subsequent relief, if any, to be sought from the legislature. Furthermore, every claimant should insist that any settlement agreement or release for less than the full amount of the judgment provides explicitly, in writing, precisely what the respondent agency's position will be, if and when a subsequent claim bill is introduced. For example, an agency may agree to join in a request for passage of the bill, agree to the bill's passage, agree not to contest it, agree to stand silent, agree to contest damages but not liability, or, reserve the right to contest all issues.

Claimants who execute unconditional releases, without reservation, should not expect to receive additional funds via the legislature. They have released the respondent

governmental agency from both the legal and equitable obligation to pay more.

**Practice Point 12:** The legislature favors structured payments and guaranteed-term annuities in large claims, in claims involving small or economically hard-pressed local governmental entities,<sup>31</sup> and in claims on behalf of those who have suffered serious and permanent injuries that are likely to require substantial or long term medical care. Funds appropriated to or for the benefit of a minor or an incompetent person, will be paid only to a properly constituted guardianship estate, in which subsequent disbursements can be made under the direct supervision of the circuit court.

**Practice Point 13:** Services of a competent, well prepared attorney are usually help-

**Enactment of a claim bill is, by design, a deliberative, often unpredictable process that has no binding time standards**

ful to a claimant, but legal representation is not an absolute necessity for success in the claim bill process. There have been claimants who have been able to guide their own claim bills through the legislative process successfully, without legal representation. Attorney's fees are a matter of contract between the claimant and attorney, subject to the usual ethical considerations,<sup>32</sup> the statutory 25 percent rule<sup>33</sup> and the legislature's prerogative to reduce the percentage in appropriate cases.<sup>34</sup>

**Conclusion**

Many plaintiffs are greatly dismayed when they learn that the long journey that they have traveled through trial, judgment, and possibly appeal, presents them with yet another entire course of hurdles to clear prior to receiving payment in full. Enactment of a claim bill is, by design, a deliberative, often unpredictable process that has no binding time standards.

On April 26, 1923, an unwary business

visitor to the Capitol in Tallahassee fell 30 feet into an open and dark freight elevator shaft, the door to which was apparently left open by a negligent state employee. The claimant sustained "very grave and serious injury."<sup>35</sup> The legislature enacted a \$1,000 claim bill that was signed into law only 43 days after the incident. On the other hand, remember Benjamin G. Thornton, the unfortunate fellow who agreed to build Florida's first permanent capitol? His claim bill was first considered on February 17, 1833, but because of the novelty of the procedure, the territorial government's apparent inability to pay him, and intervening litigation, the amount of his claim was not finally determined and paid until January 6, 1847. Mr. Thornton waited 14 years to get his \$2,500.

For some, the claim bill system can resolve a claim bill quickly.<sup>36</sup> For others, the process can take much longer, as two current claimants, whose series of 18 claim bills have been under legislative consideration for over 10 years, now know.<sup>37</sup> Every potential claimant's attorney must approach the evolving claim bill process with patience and at least a general understanding of how legislation is enacted. Claim bills, a potentially potent remedy, were first addressed in the 1885 Constitution.<sup>38</sup> Over a century later, the Florida Legislature is still debating their proper role. □

<sup>1</sup> Gerard v. Department of Transportation, 472 So.2d 1170 (Fla. 1985).

<sup>2</sup> This article does not address payment of claims arising out of federal civil rights violations. Such claims against the state are currently handled by the Division of Risk Management of the Florida Department of Insurance, or, if made against a local governmental entity, by that entity's risk management system. Neither does this article address the Florida Supreme Court's substantial role in modifying the common law rule of governmental immunity. The reader is directed to several comprehensive explanations of this historical development contained in Cauley v. City of Jacksonville, 403 So.2d 379 (Fla. 1981); Trianon Park Condominium Association v. City of Hiawah, 468 So.2d 912 (Fla. 1985); and *Sovereign Immunity*, LX, Fla. B.J. 41 (April 1986).

<sup>3</sup> An act of the Legislative Council, approved September 2, 1822, currently codified in Fla. Stat. §2.01, (1987).

<sup>4</sup> Russell v. The Men of Devon, 100 Eng. Rep. 359 (1783).

<sup>5</sup> An Act for the Relief of Benjamin G. Thornton and Jesse H. Willis, Acts of the Legislative Council, Ch. 738, No. 81 (1833).

<sup>6</sup> Fla. Stat. §768.25(5) (1987).

<sup>7</sup> Fla. Stat. §768.25(6) & (7) (1987).

<sup>8</sup> Dickinson v. Board of Public Instruction of Dade County, 217 So.2d 553, 560 (Fla. 1968).

<sup>9</sup> Fla. Const. art. IV, §19 (1868).

<sup>10</sup> Ch. 69-116, Laws of Fla. (1969).

<sup>11</sup> Ch. 73-313, Laws of Fla. (1973).

<sup>12</sup> House Bill 450 (1977); Claim of Huddleston.

<sup>13</sup> Huddleston v. City of Coral Gables, Case No. 76-4193(21), (Fla. 11th Cir. Cl., 1976).

<sup>14</sup> Ch. 77-479, Laws of Fla. (1977).

<sup>15</sup> Fla. Stat. §768.28(13) (1987).

<sup>16</sup> Fla. Stat. §286.28 (1985), repealed effective July 1, 1987 by Ch. 87-134, Laws of Fla.

<sup>17</sup> Fla. Stat. §30.55(2) (1985); Fla. Stat. §230.23(9)(d) (1985); and Fla. Stat. §240.213(2) (1985); all repealed effective July 1, 1987, by Ch. 87-134, Laws of Fla. (1987).

<sup>18</sup> Avallone v. Board of County Commissioners of Citrus County, 493 So.2d 1002 (Fla. 1986).

<sup>19</sup> Ch. 87-134, Laws of Fla. (1987).

<sup>20</sup> Fla. Stat. §11.065(1) (1987); but see 1955 Op. Atty Gen. Fla. 055-82 (April 14, 1955); Fla. Stat. §768.28(11) (1987).

<sup>21</sup> House Bill 394 (1986); Claim of Cobo Company, Inc.

<sup>22</sup> Senate Bill 483 (1986); Claim of Minnis.

<sup>23</sup> Fla. Stat. §768.28 (1987).

<sup>24</sup> Fla. Const. art. III, §10 (1968).

<sup>25</sup> Fla. Stat. §§11.02, 11.065 (1987).

<sup>26</sup> Fla. Stat. §11.03 (1987).

<sup>27</sup> Senate Rule 4.8 (1987), as amended May 25, 1987, Senate Journal, Fla. Senate, 1987, p. 413.

<sup>28</sup> Journal, Fla. House of Representatives, 1984, Dec. 6, pp. 3-4.

<sup>29</sup> Fla. Stat. §11.045 (1987).

<sup>30</sup> Senate Rule 9 (1986-1988); House Rule 13, (1986/1988).

<sup>31</sup> Ch. 84-73, Laws of Fla. (1984); Claim of Davis.

<sup>32</sup> DR 2-106, Fla. Bar Canon 2.

<sup>33</sup> Fla. Stat. §768.28(8) (1987).

<sup>34</sup> Ch. 80-488, Laws of Fla. (1980); Claim of Gamble; see also Gamble v. Wells, 450 So.2d 850 (Fla. 1984)

<sup>35</sup> Ch. 9190, Laws of Fla. (1923); Claim of Wells.

<sup>36</sup> For example, Senate Bill 1326 (1986), Claim of Miller, was enacted and became Ch. 86-374, Laws of Fla. (1986), within 38 days after it was first filed in the Florida Senate, however, the claim had received substantial legislative review prior to being filed.

<sup>37</sup> Senate Bill 1264 (1977), Senate Bill 16 (1978), House Bill 353 (1978), Senate Bill 101 (1979), House Bill 1265 (1979), Senate Bill 514 (1980), House Bill 9 (1980), House Bill 1456 (1980), Senate Bill 184 (1981), Senate Bill 900 (1983), House Bill 834 (1983), Senate Bill 246 (1984), House Bill 93 (1984), House Bill 417 (1985), Senate Bill 160 (1986), House Bill 129 (1986), Senate Bill 199 (1987), and House Bill 109 (1987); Claims of Pitts and Lee.

<sup>38</sup> Fla. Const. art. XVI, §11, Fla. Const. (1885).

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*The author gratefully acknowledges the suggestions and editorial assistance of Lisa Rush Kane.*

Detailed Claim Bill Report  
1999 Session

BILL NO.    SPONSOR                      CLAIMANT/DEFENDANT/TYPE OF CLAIM                      ORIGINAL                      HOUSE/SENATE AMOUNT                      FINAL ACTION  
AMOUNT

HB 33 SB 40	Sembler (Campbell)	Warren Weathington v. City of Tallahassee (negligence of tennis camp.)	\$1,039,000	\$ 750,000	Passed - 99-411
HB 279 SB 12	Dennis (Holzendorf)	Frances McGrady v. Jacksonville Transportation Authority (Bus/Pedestrian)	\$265,000	0	Withdrawn
HB 283 SB 20	Fiorintino (Grant)	Patricia Baker v. DOT (Rape at Welcome Station.)	\$ 503,223	\$ 443,223.66	Passed - 99-402
HB 469 SB 4	Sembler (Forman)	Joseph Bellamy Farver v. DCF (child abuse.)	\$ 6,900,000	\$ 4,500,000	Passed - 99-400
HB 525 SB 8	Eggelation (Jones)	Jose and Johammes Pena v. City of Hialeah (Drowning due to improper road shoulder.)	\$ 1,300,000	0	Died on Calendar
HB 527 SB 16	Gay (Geller)	Jeremy Stewart v. City of Sanibel (High speed chase - surfer. Settled within policy limits.)	\$1,540,000	0	Withdrawn
HB 529 SB 26	Frankel (Rossin)	Robert Rosado v. Palm Beach County (Accident with fire truck.)	\$ 145,507	\$111,560.13	Passed - 99-408
HB 635 SB 14	Hill (Holzendorf)	Trey Alls v. DOT (Accident due to faulty road grating.)	\$ 1,775,000	\$ 1,775,000	Passed - 99-401
HB 701 SB 48	Morrone (Sullivan)	Paul Gilfoyle v. City of Clearwater (Accident with police vehicle.)	\$ 225,000	\$ 225,000	Passed - 99-413
HB 939 SB 6	Cantens (Forman)	Ana & Juan Marquez v. Metro Dade County (Accident with police vehicle.)	\$ 375,000	\$ 375,000	Passed - 99-405
HB 941 SB 46	Cantens (Jones)	Martha Sosa v. Metro Dade County (County bus ran over arm.)	\$ 1,574,000	\$ 900,000	Passed - 99-412
HB 977 SB 22	Cantens (Silver)	Children of Elionne Joseph v. Metro Dade County (Negligent pursuit.)	\$ 1,300,000	\$ 1,300,000	Passed - 99-406
HB 1107 SB 34	Ritter (Dyer)	Jose Cruz v. West Volusia Hospital Authority (Hospital negligence.)	\$ 1,800,000	\$ 1,800,000	Passed - 99-410
HB 1109 SB 24	Cantens (Campbell)	Charlie Brown v. City of Delray Beach (Negligent handling of evidence.)	\$ 80,000	\$ 80,000	Passed - 99-407
HB 1111 SB 32	Ritter (Myers)	Eubanks-Black family v. Palm Beach County (Drowning due to unsafe road.)	\$ 350,000	\$ 350,000	Passed - 99-409
HB 1747 No SB	Bullard	Christa Holland v. South Broward Hospital District (Hospital negligence.)	\$1,682,500	0	Died in Senate
HB 2177 No SB	Claims	Elizabeth Menendez v. Palm Beach County (Negligent pursuit.)	\$ 2,400,000	0	Died in Senate
HB 2175 No SB	Claims	William and Susan Mock v. St. Johns County (Motorcycle v. ambulance.)	\$ 170,000	0	Died in Senate

HB 2179 No SB	Claims	Christopher Ruck v. Miami-Dade County (County bus hit bicycle rider.)	\$ 800,000	0	Died in Senate
No HB SB 10	(Turner)	Wyke v. Polk County School Board (Improper supervision - suicide.)	\$ 65,000	0	Died in Senate
No HB SB 18	(Grant)	South West Florida Water Management District v. Pinellas County (Attorney's fees.)	\$200,000	0	Withdrawn
No HB SB 28	(Campbell)	Howard v. Lake Wales Housing Authority (Slip and fall.)	\$78,883	0	Withdrawn
No HB SB 30	(Campbell)	Gay v. Board of Regents (Contract damages.)	\$577,411	0	Withdrawn
No HB SB 36	(Dyer)	Hild v. Fla. Retirement System (Retirement benefits.)	\$1,692 for 106 months	0	Died in Senate
No HB SB 38	(Kirkpatrick)	McAdams v. DCF (Attorney's fees.)	\$217,310	0	Withdrawn
No HB SB 42	(Thomas)	Scott v. FDLE (Helicopter crash.)	\$2,000,000	0	Withdrawn
No HB SB 44	(Thomas)	Wewahitchka State Bank v. DBPR (Business damages.)	\$45,000	0	Withdrawn

Detailed Claim Bill Report  
1997 & 1998 Session

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 0653 SB 0038	Lawson Thomas	Relief of Dena Sheryl Steels vs. Leon County (Drowning death of her 8-year-old son in a drainage system on property owned by the Leon County School Board)	\$200,000.00	\$200,000.00	HB Passed Chapter No. 98-457
HB 0939 SB 0020	Melvin Clary	Relief of Dale R. Cowie vs. Department of Management Services (Expenses incurred in performing work as a subcontractor on the Jackson Correctional Institution Project)	\$15,401.77	\$15,402.00	SB Passed Chapter No. 98-427
HB 0941 SB 0018	Melvin Clary	Relief of Ray Construction vs. Department of Revenue (Excess documentary stamp assessments paid to the DOR and for Attorney's Fees and Costs)	\$18,230.46	\$18,230.00	SB Passed Chapter No. 98-426
HB 1711 SB 0006	Rojas Meadows	Relief of Michelle Ponce vs. Dade County (Claimant was struck by a Metropolitan Dade County Bus)	\$410,000.00	\$410,000.00	SB Passed Chapter No. 98-432
HB 1713 SB 0044	Sembler Turner	Relief of Frank H. Holliday vs. Manatee County (Injuries and damages caused by the Manatee County Sheriff's Department in a traffic accident)	\$235,000.00	\$235,000.00	SB Passed Chapter No. 98-443
HB 1717 SB 0016	Lippman Turner	Relief of Lazaro Gutierrez vs. Dade County School Board (Injuries sustained in a shooting at Miami Southridge Senior High School)	\$2,973,246.00	\$2,973,246.00	SB Passed Chapter No. 98-435
HB 1767 SB 0008	Murman Grant	Relief of Heather Roszell (Substained injuries while a patient of the Hillsborough County Hospital Authority)	\$3,550,000.00	\$3,550,000.00	SB Passed Chapter No. 98-433
HB 1769 SB 0014	Bradley Forman	Relief of Tirini S. Riley vs. South Broward Hospital District (Memorial Hospital) - Medical malpractice	\$1,000,000.00	\$1,000,000.00	SB Passed Chapter No. 98-434
HB 1771 SB 0004	Villalobos Forman	Relief of Juan A. Garcia, Jr. vs. City of Miami Beach (Compensation for injuries sustained after claimant dove into the surf at Miami Beach)	\$1,050,000.00	\$1,050,000.00	HB Passed Chapter No. 98-458
HB 1881 SB 0002	Ritter Childers	Relief of David Kelley and Kelley Estate vs. Florida Department of Transportation - (Auto accident involving a DOT vehicle)	\$1,400,000.00	\$1,400,000.00	SB Passed Chapter No. 98-425
HB 2001 SB 0050	Chestnut Grant	Relief of Runette J. Bass vs. Columbia County - to compensate her for injuries & damages sustained as result of actions.	\$2,953,874.00	-0-	Died in Committee
HB 2129 SB 0046	Dennis Holzendorf	Relief of Frances McGrady vs. Jacksonville Transportation Authority - Claimant died after judgment was entered and her estate is seeking the balance of the excess judgment (Original claimant receive injuries while departing off the bus)	\$265,000.00	-0-	Died in Committee
HB 2135 SB 0030	Saunders Forman	Relief of Franklin Messick vs. Collier Co. - (Negligent acts causing wrongful death)	\$101,639.55	\$101,639.55	SB Passed Chapter No. 98-438
HB 3011 SB 0042	Rojas Silver	Relief of Vernelle Lowder vs. Dept. of Health and Rehabilitative Service's - (Misdiagnosing claimant with HIV)	\$250,000.00	-0-	Died on Justice Council Calendar

HB 3013 SB 0048	Cosgrove Silver	Relief of Alan Taylor vs. South Florida Water Management District - (for injuries sustained in a boating accident)	\$4,511,708.77	-0-	Died in Committee
HB 3023 SB 0024	Livingston Forman	Relief of Jeremy Stewart/Sanibel	\$1,544,408.00	-0-	Withdrawn
HB 3025 SB 0022	Ritter Campbell	Relief of Triesa Wells vs. City of Pembroke Pines - (injuries suffered when her vehicle was struck by a City of Pembroke Pines Police vehicle)	\$499,000.00	\$499,000.00	SB Passed Chapter No. 98-436
HB 3027 SB 0032	Silver Silver	Relief of Kathryn Malloy vs. Palm Beach County School Board - (injuries received in a motor vehicle)	\$86,050.00	\$86,050.00	SB Passed Chapter No. 98-439
HB 3029 SB 0036	Thrasher Horn	Relief of Carrie A. Wilson vs. Duval County School Board - (injuries sustained while a student at Dupont Middle School in Jacksonville, FL)	\$1,685,657.00	\$1,150,000.00	SB Passed Chapter No. 98-441
HB 3031 SB 0026	Barreiro Turner	Relief of Adela Azcuy vs. Metro Dade County-(injuries)	\$232,519.51	\$144,000.00	SB Passed Chapter No. 98-437
HB 3035 SB 0068	Meeks Holzendorf	Relief of Pitts and Lee - (Allegations of unjust incarceration)	\$3,000,000.00	\$1,250,000 - (includes attorney fees not to exceed 25%)	HB Passed Chapter No. 98-431
HB 3037 SB 0034	Cosgrove Casas	Relief of Bruce Wiggins vs. Dade County - (Estate of Helen Wiggins for her death as result of negligence)	\$1,522,655.00	\$1,522,665.00	SB Passed Chapter No. 98-440
HB 3041 SB 0028	Miller Forman	Relief of Frank Roster vs. Dept. of Transportation - (Negligence)	\$7,627,602.00	\$4,600,000.00	SB Passed Chapter No. 98-428
HB 3043 SB 0062	Sembler Diaz-Balart	Relief of Joseph B. Farver vs. Dept. of Children and Family Services - predecessor agency's failure to follow up on complaints	\$6,900,000.00	-0-	Died in Committee on Health and Human Services
HB 3045 SB 0066	Boyd Williams	Relief of Penny Tilley vs. State of Florida Retirement - (retirement benefits from deceased husband)	\$331.14 per month	\$3,973.68 and \$331.14 per month and an annual cost of living allowance	SB Passed Chapter No. 98-430
HB 3047 SB 0054	Lynn Dyer	Relief of Michelle Jones vs. West Volusia Memorial Hospital - (medical malpractice)	\$1,972,540.00	\$1,972,540.00	SB Passed Chapter No. 98-445
HB 3051 SB 0052	Miller Grant	Relief of Jemal Kurein vs. City of Tampa - (disabling injuries from the accident)	\$290,930.30	\$290,930.30	SB Passed Chapter No. 98-444
HB 3055 SB 0040	Tobin Campbell	Relief of Bruce and Janie Silverman vs. North Broward Hospital District - (medical malpractice)	\$1,000,000.00	\$1,000,000.00	SB Passed Chapter No. 98-442
HB 3057 SB 0060	Ritter Gutman	Relief of Jeanette Alonso vs. Dade County - (medical malpractice)	\$3,800,000.00	\$3,800,000.00	SB Passed Chapter No. 98-447
HB 3079 SB 0056	Andrews Klein	Relief of Julie McGinnes vs. Palm Beach Co. - (accident injuries)	\$2,325,000.00	\$1,025,000.00	SB Passed Chapter No. 98-446
HB 3081 SB 0070	Casey Klein	Relief of Matthew White vs. Alachua County Sheriff's Department - (injury's loss sustained while being struck by a horse being chased by the Sheriff's Dept.)	\$401,116.00	\$275,000.00	SB Passed Chapter No. 98-448
HB 3083 SB 0064	Eggelletion Gutman	Relief of Jose and Johannes Pena vs. City of Hialeah - (negligence)	\$1,101,061.14	-0-	Died in Committee
HB 3085 SB 0058	Healey Meadows	Relief of Kimberly L. Gonzalez vs. Palm Beach County Sheriff's Department (auto accident involving Sheriff's vehicle)	\$95,406.00	\$71,790.67	HB Passed Chapter No. 98-459

Detailed Claim Bill Report  
1996 Session

BILL NO.    SPONSOR                      CLAIMANT/DEFENDANT/TYPE OF CLAIM                      ORIGINAL AMOUNT                      HOUSE/SENATE AMOUNT                      FINAL ACTION

HB 631 SB 838	Bradley (Sullivan)	Angela Brown v. City of St. Petersburg (Excess Judgment - Bitten by a police dog.)	\$ 64,177.43	\$ 54,286.56	Passed - 96-475
HB 627 SB 1704	Martinez (Grant)	Captain Warwick G. Cahill v. BPR (Equitable claim - Suspending the claimant's harbor pilot's licenses.)	\$ 134,809.99		Died in Committee
HB 863 SB 1000	Feren (Weinstein)	Betty Dawson v. City of Pembroke Pines (Settlement - injuries and damages sustained as a result of negligence.)	\$ 200,000.00	\$ 200,000.00	Passed - 96-480
HB 859 SB 1756	Sembler (Kurth)	Foremost Insurance Company v. The Town of Indian River Shores (Excess judgment (Charles and Rita Warmuth)	\$ 196,148.47		Died in Committee
HB 1155 SB 2728	Logan (Jones)	Jaharvis Jamal Frazier v. North Broward Hospital Dist. (Settlement-Permanent injuries suffered due to Negligence).	\$ 5,000,000.00	\$ 3,000,000.00	Passed - 96-491
HB 871 SB 534	Heyman (Meadows)	Gladys Frias v. City of Miami (Excess Judgment-Injuries sustained when the bus she was driving was hit by a city police car).	\$ 81,912.00	\$ 81,912.00	Passed - 96-482
HB 489 SB 530	Pruitt (Myers)	Michael Hall v. Palm Beach Co. (Excess Judgment-Compensate him for injuries & damages sustained as result of negligence).	\$ 2,000,000.00	\$ 1,148,176.76	Passed - 96-474
HB 697 SB 1218	Hill (Turner)	Jesse Hill v. Department of Corrections (Excess Judgment-damages sustained as result of tortious conduct & negligence).	\$ 487,500.00	\$ 250,000.00	Passed - 96-438
HB 2703 SB 3072	Jacobs (Wexler)	Ronald Edwin Hungerford v. Palm Beach County (Settlement for injuries suffered in an automobile accident).	\$ 2,800,000.00	\$ 2,800,000.00	Passed - 96-547
HB 801 SB 654	Mackey (Williams)	Lamar Jenkins v. General Revenue Fund (Equitable-charges brought against him as property appraiser for Suwannee County).	\$ 130,000.00		Died in Committee
HB 2007 SB 2884	Sublette (Silver)	Erik Joglar v. Dade County (Settlement-Injuries received in a motor vehicle accident with a Metro Dade County Police Vehicle).	\$ 550,000.00	\$ 550,000.00	Passed - 96-510
HB 1193 SB 1040	Johnson (Grant)	Douglas Johnson v. Hillsborough County (Excess-Injuries suffered while delivering mail).	\$ 94,876.00	\$ 80,000.00	Passed - 96-492
HB 957 SB 124	Tobin (Forman)	Tina Marie Kirkham v. South Broward Hospital District (Settlement for the wrongful death of her mother, Diane Kirkham).	\$ 550,000.00	\$ 550,000.00	Passed - 96-484
HB 225 No SB	Ball	Julian S. Mangum, Sr. v. Sheriff of Brevard County (Equitable-damages arising from seizure of claimant's business)	\$ 155,000.00		Died in Committee
HB 675 SB 2730	Cosgrove (Weinstein)	Deborah Martin v. Board of Trustees of the FL. Keys Community College (Excess Judgment-Injuries during training exercise)	\$ 1,300,000.00	\$ 400,000.00	Passed - 96-476
HB 1101 SB 780	Rojas (Casas)	Joaquin and Maria Martins v. The City of Homestead (Excess Judgment-Injuries while patient at James Archer Smith Hospital	\$ 3,734,764.00	\$ 1,258,000.00 (plus) 17 yrs. @ \$170,000.00 yr. +6% interest accrued annually	Passed - 96-489
HB 861 SB 908	Crady (Gutman)	Whitney Marx v. Dade County (Settlement-injuries that occurred after a seizure at school)	\$ 350,000.00	\$ 350,000.00	Passed - 96-479

Detailed Claim Bill Report  
1996 Session

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 1985 SB 2934	Villalobos (Wexler)	Eva Murray v. North Broward Hospital District (Settlement - injuries sustained while a patient)	\$ 1,250,000.00	\$ 1,250,000.00	Passed - 96-508
HB 893 SB 1688	Trammell (Grant)	Francisco Ortega and Maria Ortega v. Public Health Trust of Dade Co. (Excess Judgment - Binding arbitration proceeding)	\$ 3,741,186.00	\$ 2,875,000.00	Passed - 96-483
HB 1981 SB 1172	Upchurch (Bankhead)	James and Jacquelin Ponce v. Dept. Of Environmental Protection (Equitable - Lease fees on land not owned by State of Florida)	\$ 679,835.15	\$ 270,656.80	Passed - 96-437
HB 2093 SB 2592	Trammell (Jones)	Christine Reyes and Raquel Reyes v. Dept. of Transportation (Settlement - injuries suffered in an automobile accident)	\$22,500,000.00	\$22,100,000.00	Passed - 96-440
HB 679 SB 744	Sembler (Bankhead)	Charles W. Sparring v. Sarasota County (Equitable - resulting from accident due to negligence)	\$ 500,000.00		Died in Committee
HB 1153 SB 1160	Trammell (Jones)	Tierneys v. Dade County (Excess judgment pursuant to a Settlement agreement - for injuries in traffic accident)	\$ 5,466,053.00	\$ 5,446,053.00	Passed - 96-490
HB 383 SB 594	Ziebarth (Burt)	David Viers v. Volusia County School Board (Settlement - tractor ran over his legs)	\$ 200,000.00	\$ 200,000.00	Passed - 96-473
HB 1977 SB 2654	Clemons (Thomas)	Robert Jeff Woodham v. State of Florida (Equitable - regulatory interaction between state and federal law)	\$ 1,000,000.00	\$ 1,000,000.00	Passed - 96-439

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<sup>1</sup>\$3.4 million plus, 400,000 per year increasing annually at 5% estimated present value \$22,100,000.00

Detailed Claim Bill Report  
1995 Session

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
SB 80 HB 57	Forman Geller	Nicholas Maracic v. Broward County (personal injury)	\$280,285	\$200,000	Failed in Senate
SB 264 HB 507	Silver Meek	Deborah Brown v. City of Hallandale (wrongful death)	\$171,219	\$130,000	Passed (95-451)
SB 986 HB 1933	Jones Villalobos	Raul Eguaras v. Dept. of Natural Resources (personal injury)	\$755,000	\$755,000	Passed (95-442)
SB 988 HB 1935	Jones Villalobos	Darcy Cogan v. Dept. of Environmental Protection (personal injury)	\$615,000	\$615,000	Passed (95-443)
SB 990 HB 585	Jones Cosgrove, et al.	Jean Sadowski v. DMS (wrongful death)	\$1,933,438	\$1,546,079	Passed (95-444)
SB 1058 HB 759	Bankhead Sindler	Florida National Guard (property damage)	\$2,500	\$2,500	Passed (95-445)
SB 1364 HB 831	Kirkpatrick Clemons	Woodham, Robinson, Eldridge, v. Dept. of Insurance (personal injury)	\$4,250,000	\$4,250,000	Died in Committee
SB 1412 HB 1351	Casas Cosgrove	Edgar Groh v. Metropolitan Dade County (personal injury)	\$256,000	\$356,000	Passed (95-452)
SB 1520 HB 697	Turner Tobin	Christopher Bruno v. Broward General Medical Center (personal injury)	\$900,000	\$900,000	Passed (95-453)
SB 1744 HB 623	Weinstein Graber	Justin Bates v. North Broward Hospital District (medical malpractice)	\$6,279,034	\$6,279,034	Passed (95-454)
SB 2318 HB 2307	Bankhead Trammell	Kevin & Laura Hoyle v. University of Florida (personal injury)	\$540,200	\$540,200	Passed (95-446)
SB 2436	Thomas	William & Esther Shirley v. DHSMV & DOT (personal injury)	\$1,498,550	\$1,500,000	Passed (95-447)
SB 2470 HB 1421	Turner Roberts-Burke	Freddie Lee Pitts & Wilbert Lee (wrongful incarceration)	\$2,000,000	\$2,000,000	Died in Committee
SB 2972 HB 1353	Wexler Andrews	Justa Rodriguez v. Loxahatchee Groves Water Control Management District-Palm Beach County (wrongful death)	\$909,397	\$909,397	Died in Committee
SB 2982 HB 2329	Holzendorf Horan	Joaquin & Maria Martins v. James Archer Smith Memorial Hospital (medical malpractice)	\$2,750,000	\$2,750,000	Died in Committee
SB 2996	Forman	Tina Kirkham v. South Broward Hospital District (wrongful death)	\$550,000	\$550,000	Died in Committee
HB 59 SB 830	Tobin Grant	Tyler Fontaine v. City of Ft. Lauderdale (wrongful imprisonment)	\$85,000	\$85,000	Passed (95-468)

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 205 SB 352	Ascherl Bankhead	Robert Lee Wheeler v. Dept. of Education (false accusation/ charges)	\$31,157	\$31,157	Passed (95-448)
HB 243 SB 660	Sembler Myers	Lori Burns v. Florida Retirement System (husband's retirement)	\$142,869	\$142,869	Passed (95-449)
HB 455	Trammell	Dawn Ann Spioch & Zieglers v. DOT (personal injury)	\$110,000	\$110,000	Passed (95-450)
HB 481	Sembler	Charles & Rita Warmuth v. Town of Indian River Shores (personal injury)	\$858,829	\$858,829	Passed (95-471)
HB 799 SB 1736	Geller Gutman	George & Stephen Durant v. City of Hollywood (wrongful death)	\$917,123	\$917,123	Passed (95-479)
HB 1183 SB 648	Frankel Rossin	Jesse Vincent v. Palm Beach Co. Sheriff's Office (personal injury)	\$1,778,403	\$1,778,403	Passed (95-481)
HB 1397	Roberts-Burke	Charles & Juliet Turner v. Metropolitan Dade County (wrongful death)	\$300,000	\$300,000	Passed (95-495)
HB 2131 SB 1430	Davis Grant	Lawrence P. Brown v. Sheriff of Pinellas County (wrongful death)	\$1,600,000	\$1,600,000	Passed (95-512)
HB 2181 SB 2988	Heyman Gutman	Eduardo Alonso v. Metropolitan Dade County (personal injury)	\$295,000	\$295,000	Passed (95-515)
HB 2349 SB 1354	Jacobs Meadows	Rolando Rodriguez v. Palm Beach County Sheriff's Department (personal injury)	\$525,000	\$525,000	Passed (95-522)
HB 2617	Ball	Julian S. Mangum, Sr. v. Brevard County Sheriff's Dept. (loss of business inventory)	\$155,000	\$155,000	Died in Committee

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1994 Session

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 335	Villalobos	Gabriel Castellon v. City of Miami (personal injury)	444,500	444,500	Withdrawn
HB 373 (SB 272)	Burke (Turner)	Freddie Lee Pitts & Wilbert Lee (wrongful incarceration)	2,000,000	2,000,000	Died in Committee
HB 415	Rayson	Justin Bates v. North Broward Hospital District (medical malpractice)	6,279,024	6,279,024	Died in Committee
HB 445 (SB 1292)	Cosgrove (Gutman)	Rene Perez v. Board of County Commissioners of Dade County (personal injury)	5,000,000	5,000,000	Passed (94-458)
HB 447 (SB 1330)	De Grandy (Jones)	Raul Eguaras v. Dept. of Natural Resources (personal injury)	1,066,525	1,066,525	Passed <u>VETOED</u>
HB 561 (SB 564)	Roberts (Grogan)	Julian S. Mangum, Sr. v. Brevard County Sheriff's Dept. (loss of business inventory)	1,000,000	1,000,000	Died in Committee
HB 567 (SB 1038)	Thrasher (Holzendorf)	Barbara E. A. Smith v. Dept. of Transportation (wrongful death)	500,000	500,000	Passed (94-368)
HB 585	Rayson	Ana Kirman v. Dade County & Miami Transit Authority (personal injury)	400,000	400,000	Passed (94-460)
HB 591 (SB 1774)	Lawson (Jones/Hargrett)	Rosewood Massacre (personal injury/wrongful death/destruction of property)	7,020,000	2,100,000 (maximum)	Passed (94-359)
HB 609	Sembler	Lori Burns v. Florida Retirement System (husband's retirement)	142,869	142,869	Died in Committee
HB 625	Davis	Lawrence Brown v. Pinellas Co. Sheriff's Office (wrongful death)	3,066,510	3,066,510	Died in Committee
HB 741 (SB 2936)	McClure (Johnson)	Charles W. Sparling v. Sarasota County (personal injury)	500,000	500,000	Failed in House
HB 861 (SB 1274)	Sembler (Weinstein)	William L & Esther Shirley v. DHSMV & DOT (personal injury)	1,355,572	1,355,572	Withdrawn
HB 1057 (SB 2978)	Logan (Forman)	Ardena R. Newry v. Public Health Trust of Dade County d.b.a. Jackson Memorial Hospital (wrongful death)	95,660	95,660	Passed (94-469)
HB 1097 (SB 1834)	Feren (Forman)	Jerry Bronstein v. HRS (salary reimbursement)	4,260	4,260	Passed (94-369)
HB 1185 (SB 2766) (SB 2768)	Cosgrove (Wexler) (Wexler)	Florida's False Claims Act	-----	-----	
HB 1391	Charles	Bettye Jo Arnold v. Port Orange Police Dept. (personal injury)	416,600	416,600	Passed (94-475)

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPER OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 1541	Geller	Nicholas Maracic v. Broward County (personal injury)	100,000	100,000	Died on Calendar
HB 1575	Long	Teresa Murdock v. Hernando County (personal injury)	180,000	180,000	Passed (94-479)
HB 1867	Tobin	Tyler Fontaine v. Fort Lauderdale (wrongful imprisonment)	88,321	88,321	Withdrawn from further consideration
HB 1869 (SB 22)	Eggelletion (Forman)	Patricia Ware, parent of Troy Brown v. North Broward Hospital District (medical malpractice)	400,000	400,000	Passed (94-485)
HB 2169 (SB 2862)	Clemons (Harden)	Robert Jeff Woodham v. Dept. of Insurance (personal injury)	2,750,000	1,750,000	Died, additional reference deferred
HB 2195	Cosgrove	Dolores DeLucia v. Metropolitan Dade County (personal injury)	27,588	27,588	Passed <u>VETOED</u>
HB 2197 (SB 1638)	Arnold (Forman)	Robin Driggers Williams & Kenneth E. McFartin v. Dept. of Education & FL School for Deaf & Blind (wrongful death)	500,000	500,000	Passed (94-370)
HB 2201 (SB 2934)	Crady (Crenshaw)	James H. Dukes v. Jacksonville Transit Authority (personal injury)	544,350	544,350	Passed (94-488)
HB 2341 (SB 2992)	Klein (Foley)	Laura Dunn (Bannon) v. City of West Palm Beach (personal injury)	236,658	236,656	Failed in House
SB 1324	Foley	Michael & David Whaley v. HRS (personal injury)	69,679	69,679	Passed <u>VETOED</u>
SB 2776	Silver	Randall Gibson v. S. FL Water Management District (personal injury)	544,008	296,000	Passed (94-367)

Detailed Bill Report  
1993 Session

NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 55 (SB 22)	Abrams (Diaz-Balart)	Raul Gutierrez & Julia Gutierrez v. Dade County School Board (wrongful death)	\$ 1,290,599	\$ 953,273	Passed (93-354)
HB 113 (SB 2348)	Bitner (Boczar)	Robert Conners and Rose Bean, for Jason Crisante, v. Charlotte County Sheriff's Department (wrongful death)	350,000	350,000	Passed (93-359)
HB 163 (SB 294)	Tobin (Forman)	Daniel Baker v. Broward County Board of County Commissioners (personal injury)	800,000	315,000	Passed (93-360)
HB 207 (SB 372)	Dennis (Holzendorf)	Teresa Green and her 7 siblings v. University Medical Center, Inc., Duval County, & Board of Regents (wrongful death)	631,977	631,977	Died in committee
HB 275 (SB 296)	Schultz (Forman)	Brittany Lee Nelson v. South Broward Hospital District (medical malpractice)	799,000	799,000	Passed (93-361)
HB 277 (SB 474)	Sembler (Kurth)	R.M. v. Dept. of Legal Affairs (personal injury)	5,000	-----	Passed (93-303)
HB 279	Sanderson	Diane Stampier v. HRS (personal injury)	350,227	350,227	Passed (93-304)
HB 281 (SB 96)	Smith (Bankhead)	Fla. National Guard Members (property damage)	15,350	30,125	Passed (93-305)
HB 305	Cosgrove	Jaharvis Jamal Frazier v. North Broward Hospital District (medical malpractice)	5,000,000	5,000,000	Died in committee
HB 399	Rayson	Justin Bates & Cynthia Bates v. North Broward Hospital District (medical malpractice)	6,279,023	6,279,023	Died in committee
HB 401 (SB 804)	Rush (Crist)	Steven Tomesko v. Dept. of Transportation (personal injury)	416,200	289,350	Passed (93-306)
HB 403 (SB 2166)	Barreiro (Silver)	Denise Parmentier v. Dept. of Transportation (personal injury)	350,000	350,000	Passed (93-307)
HB 477	Arnall	Ardena R. Newry v. Public Health Trust of Dade County d.b.a. Jackson Memorial Hospital (wrongful death)	213,598	95,660	Died in committee
HB 545	Martinez	Michelle O. Cardona v. Hillsborough Co. Hospital Authority (medical malpractice)	3,300,000	3,300,000	Died in committee
HB 813 (SB 1452)	DeGrandy (Jones)	Rosewood Massacre (wrongful death)	Indeterminate		Died in committee
HB 1001 (SB 612)	Brown (McKay)	Laurence Wallenstein, widow, and Jennifer, Melanie & Leif Wallenstein, children, v. Sarasota-Manatee Airport Authority (wrongful death)	26,121	26,121	Passed (93-378)

BILL NO.	SPONSOR	CLAIMANT/DEFENDANT/TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 1205	McClure	Charles W. Sparling v. Sarasota County (personal injury)	3,000,000	3,000,000	Failed in House
HB 2171 (SB 490) (HB 337)	Trammell (Gutman) (Valdes)	Adolfo E. Roblero, as personal representative of estate of Jorge Enrique Roblero, v. Miami-Dade Community College security guard (wrongful death)	874,518	874,518	Failed in House SB 490 Withdrawn HB 337 Withdrawn
SB 620	Turner	Freddie Lee Pitts and Wilbert Lee (wrongful incarceration)	1,000,000	1,000,000	Withdrawn
SB 676 (HB 1671)	Silver (Hill)	Mr. & Mrs. Darriel Swindell v. Dept. of Corrections (personal injury)	372,741	372,741	Passed (93-302)
SB 768 (HB 209)	Kirkpatrick (Chestnut)	University of Florida v. Wendy Townsend	60,000	60,000	Unfavorable
SB 1598 (HB 2175) (HB 1297)	Jenne (Stafford) (Cosgrove)	Florida's False Claims Act	-----	-----	Died on Calendar
SB 2406	Forman	Patricia Ware, parent of Troy Brown v. North Broward Hospital District (medical malpractice)	400,000	400,000	Died in committee
SB 2436	Grogan	Julian S. Mangum, Sr. v. Brevard County Sheriff's Dept. (loss of business inventory)	1,000,000	1,000,000	Died in committee

Detailed Claim Bill Report  
1992 Session

BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 71	Geller	James McWilliams v. Div. of FL Highway Patrol, DHSMV (personal injury)	\$ 515,726 + int	100,000	Failed in House
HB 89	Geller	James Wortham, by mother Dana Knight, v. HRS (personal injury)	234,432 + int.	150,000	Passed (92-221)
HB 91 (SB 1672)	Muscarella (Grizzle)	City of Clearwater and Pinellas County v. Michael W. Kenton (restitution for damages)	194,985 max.		Passed (92-222)
HB 303	Geller	Jamie Aguilar v. Broward County School Board	219,098		Died in committee
HB 601 (SB 554)	Press (Wexler)	Marshall D. & Alicia Simmons v. DOT (death of Kathy Ann Simmons & personal injury)	728,060	450,000	Passed (92-223)
HB 947 (SB 902)	Roberts (Gardner)	Julian S. Mangum, Sr. v. Brevard County Sheriff's Dept. (loss of business inventory)	1,000,000		Died in committee
HB 1011	Gordon	M. H. v. Miami-Dade Community College (personal injury)	233,797 + int	100,000	Passed (92-224)
HB 1065 (SB 1170)	Silver (Forman)	James C. & Judith L. Griffin v. Metro Dade County (wrongful death of child, Desire M.)	586,800	299,800	Passed (92-251)
HB 1111 (SB 1140)	Hill (Johnson)	Edith & Lewis Crosley, parents of Todd Patrick Neely, v. State Attorney for 19th Judicial Circuit (wrongful prosecution)	250,000 125,000	150,000	Passed (92-253)
HB 1419 (SB 1376)	Langton (Girardeau)	Mr. & Mrs. Darriel Swindell v. Dept. of Corrections (personal injury)	372,741		Passed/VETOED
HB 1483 (SB 2328)	Burke (Gordon)	Wilbert Lee & Freddie Lee Pitts (wrongful imprisonment)	500,000		Died in committee
HB 1597 (SB 1132)	Healey (Weinstock)	Michael, son, & David, father, Whaley v. HRS (personal injury)	69,679		Died in committee
HB 1599	Geller	Nicholas Maracic v. Broward County (personal injury)	280,285		Died in committee
HB 2093	Clark	Patricia Ware, parent of Troy Brown v. North Broward Hospital District (medical malpractice)	900,000		Died in committee
HB 2171 (SB 1856)	Burke (Meek)	Christopher, Christopher, Jr. and David King v. HRS (personal injury)	500,000		Died in committee
HB 2203 (SB 1640)	Burke (Meek)	Kevin Johnson, by mother Joanne Adside, v. Dade County District School Board (personal injury)	2,541,938		Passed (92-273)
HB 2219	Rush	Ozie L. Brown, rep. for Alton P. Bass estate, v. Board of Regents (wrongful death)	43,882.56		Passed (92-225)
SB 128 (HB 599)	Langley (Starks)	City of Lake Mary and Seminole County v. DOT (road improvement costs)	120,000		Withdrawn

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BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
SB 474	Langley	Willie King, Jr. v. FSU (personal injury)	144,000		Withdrawn
SB 1344	Girardeau	Charles Vaughn v. HRS (medical expenses)	91,936		Died in committee
SB 2208	Diaz-Balart	Luis Negron, Brenda Lippman, and Hilda Negron v. HRS (personal injury)	2,700,000		Died in committee

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BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 55	Wise	Mark Timothy Crawford v. DOT (personal injury)	\$2,500,000	\$ -	Died in Committee
HB 189 (SB 770)	Grandy (Diaz-Balart)	Yolanda A. Torres v. Metro Dade County (personal injury)	700,000	700,000	Passed
HB 269 (SB 482)	Press (Forman)	Brenda & Steve Smith (wrongful death of daughter)	9,050,000	4,500,000	Passed
HB 287 (SB 1126)	Sansom (Kurth)	Jack Forte v. DNR (property loss) (equitable claim)	53,724	57,954	Passed
HB 339 (SB 302)	Silver (Forman)	Terry Lee & Rhonda Russell v. DNR (wrongful death of son)	181,000	181,000	Passed
HB 367 (SB 1824)	Glickman (Grant)	Alfreeda K. Mobley v. Hillsborough County (personal injury)	107,463	76,664	Passed
HB 369 (SB 2368)	Arnold (Dudley)	Suzanne Alexander v. Lee County (attorney's fees/personal injury)	826,100	700,000	Passed
HB 375	Peeples	Stephen Franklin McAllister v. DeSoto County School Board (personal injury) (equitable claim)	100,000	10,000/yr.	Passed
HB 419	Geller	James Wortham v. HRS (personal injury)	234,432	-	Died in Committee
HB 461	Geller	James McWilliams v. DHSMV (personal injury)	515,726	-	Died in Committee
HB 537	Burke	Freddie Lee Pitts & Wilbert Lee v. State (wrongful incarceration)	200,000	-	Died in Committee
HB 653	Hill	Edith & Lewis Crosley (attorney's fees) (equitable claim)	400,000	250,000	Passed <u>VETOED</u>
HB 747	Logan	Hank J. Williams v. Dept. of Corrections (personal injury)	500,000	500,000	Passed/RECONSIDERED Died on Calendar
HB 885 (SB 1270)	Young (Forman)	Diana Martinez v. South Broward Hospital District (medical malpractice)	1,800,000	1,800,000	Passed
HB 905	Logan	Zona & Milton Mingo v. Dade County (personal injury)	8,000	8,000	Passed
HB 979 (SB 2380)	Langton (Bankhead)	Donald D. Moulden v. City of Jacksonville (personal injury)	112,911	56,456	Passed
HB 981 (SB 1938)	Arnall (Bankhead)	Richard Goree (Barbara Hayden, mother) v. City of Neptune Beach (personal injury)	868,296	456,336	Passed
HB 1419 (SB 604)	Diaz-Balart (Diaz-Balart)	Alberto Sosa v. Dade County School Board (personal injury)	1,300,000	1,300,000	Passed
HB 1963 (SB 1518)	Diaz-Balart (Diaz-Balart)	Michelle Ruiz v. Metro Dade County (personal injury & wrongful death of mother)	1,300,000	1,300,000	Passed

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BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 2327	Rayson	Gerald & Denise Clearwater/Ryan v. Broward General Medical Center (medical malpractice)	1,070,552	355,841	Passed
HB 2473	Rush	Ozie L. Brown (for Alton P. Bass estate) (wrongful death)	26,250	-	Failed
SB 218	Girardeau	Charles Vaughn v. HRS (medical expenses)	91,936	-	Died in Committee
SB 730	Brown	William L. & Esther Shirley v. DHSMV & DOT (personal injury)	1,373,550	-	Died in Committee
SB 944 (HB 763)	Girardeau (Langton)	Mr. & Mrs. Darriel Swindell v. Dept. of Corrections (personal injury)	372,741	-	Died in Committee
SB 1168 (HB 1253)	Kiser (Mortham)	Marsha Ann Yukon Frazier & Joy Frisby v. City of Clearwater (wrongful death) (equitable claim)	150,000	150,000	Passed
SB 1202 (HB 745)	Grizzle (Muscarella)	Clearwater & Pinellas Counties (restitution for damages by Michael Kenton)	-	-	Died in Committee
SB 1288	Childers	Joanne Prahm v. Sarasota County (personal injury)	500,000	-	Died in Committee
SB 2388	Casas	Annette & Timothy Holmes v. Metro Dade County (personal injury)	25,000	25,000	Passed
SB 2454 (HB 2555)	Diaz-Balart (Diaz-Balart)	Damian Garcia v. City of Miami (personal injury)	250,000	250,000	Passed

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BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
HB 1	Banjanin	Barbara Ann Stamm v. City of Pensacola	\$ 26,550	\$ -	Died in Committee
HB 5	Burke	Freddie Lee Pitts & Wilbert Lee v. State	500,000	-	Unfavorable
HB 19	Arnold	Alexander Family v. Lee County (personal injury)	\$ 700,000	\$ -	Died in Senate
HB 67	Sansom	Jack Forte v. DNR (property loss)	550,217	54,724	Died in Committee
HB 101	Wise	Mark Timothy Crawford v. DOT	2,500,000	-	Died in Committee
HB 121 (SB 76)	Young (Forman)	Mary & Richard Avon v. HRS (medical malpractice)	1,126,279	1,126,279	Passed
HB 135	R.C. Johnson	Rebecca Raye Wendt v. Dept. of Corrections	150,000	-	Died in Committee
HB 145	Silver	Stella Yamuni v. HRS (personal injury)	1,925,000	1,925,000	Passed
HB 177	B.L. Johnson	Steven Mahan v. HRS (property loss)	1,000	1,000	Passed
HB 191	Cosgrove	Richard J. Scheuer v. Dept. of Revenue (tax rebate)	4,109	4,109	Passed
HB 363 (SB 1344)	Bloom (Plummer)	Mirtha Schlusser v. State (retirement benefits)	63,706	63,706	Passed <u>VETOED</u>
HB 427 (SB 3094)	Frankel (Walker)	Irma Payne v. Tampa General Hospital (medical malpractice)	2,000,000	2,000,000	Passed
HB 2381	Clark	Troy Brown v. N. Broward Hospital District	900,000	-	Died in Committee
HB 2411	Cosgrove	Damian Garcia v. City of Miami	250,000	-	Died in Committee
HB 2439	Wetherell	William L. & Esther S. Shirley v. DOT & DHSMV	1,373,500	-	Died in Committee
HB 2621 (HB 459) (SB 3144)	Jones ((Bronson) (Stuart)	William & Margaret Allen, Arlene (Roy) Auer, Mary Goodrich (John Guthrie) & Joan (Robert) Nivens (personal injury/wrongful death)	500,000	500,000	Passed
HB 3101	Messersmith	Edith G. Smith v. HRS	259	-	Died in Committee
HB 3297	Rehm	Clearwater & Pinellas County (restitution for damages by Michael W. Kenton)	194,985	-	Died in Committee
HB 3601	B.L. Johnson	Victor P. and Helen M. Jones v. DOT	550,000	-	Died in Committee
SB 50	Peterson	Nancy P. & James R. Wilson (attorney's fees)	30,375	-	Died in Committee
SB 54	Walker	Wade Harvey Shiver v. DOT (personal injury)	200,000	-	Withdrawn
SB 70	Walker	A. H. Kinsey v. Florida Citrus Commission (lost profits on invention)	160,000	160,000	Passed

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1990 Session

BILL NO.	SPONSOR	CLAIMANT, DEFENDANT, TYPE OF CLAIM	ORIGINAL AMOUNT	HOUSE/SENATE AMOUNT	FINAL ACTION
SB 394	Bankhead	Sharon L. Firesheets v. DOT (personal injury)	476,308	476,308	Passed
SB 484	Crenshaw	Lori Bishop v. DOT (personal injury)	1,025,000	1,025,000	Passed
SB 1992 (HB 3025)	Walker (Rudd)	Sharon Runyan & Taroub Faraj v. HRS (property loss)	5,160	-	Died in Committee
SB 2988	Girardeau	Charles Vaughn v. HRS (medical expenses)	74,809	-	Died in Committee
SB 3072	Kiser	Paul Mitchell v. Pinellas County (wrongful death of spouse)	620,317	620,317	Passed