

Committee Substitute for Senate Bill No. 60

An act relating to the Monroe County School District; providing for the relief of Joshua England, a minor, authorizing and directing the District School Board of Monroe County to compensate Joshua England for personal injuries that he suffered due to the negligence of school board employees; providing for the use of such funds; providing for forfeiture and reversion of the funds; providing for trustee qualifications; providing an effective date.

WHEREAS, on September 3, 1999, Joshua England was at the Key West High School swimming pool, along with 10 other students who were enrolled in the school's special education class, and was under the direct and sole supervision of five teachers from Key West High School, who were employees of the District School Board of Monroe County, and

WHEREAS, the students, including Joshua, were at the pool to swim; however, Joshua did not know how to swim, a fact that was known by Joshua's teachers, and

WHEREAS, the teachers failed to monitor Joshua's activities and his location, inexcusably allowing him to sink unnoticed to the bottom of the pool, and

WHEREAS, when the teachers found Joshua at the bottom of the pool, he was not breathing, and

WHEREAS, he was subsequently airlifted to Miami Children's Hospital, where he remained for approximately 3 months, and

WHEREAS, Joshua was subsequently stabilized and transferred to the special care/vent care unit of North Shore Hospital and then to Broward Children's Center, where he remains in a vegetative state, and

WHEREAS, Joshua will require full-time, around-the-clock nursing care for the remainder of his life, and

WHEREAS, in March 2000, a suit was filed on Joshua's behalf against the District School Board of Monroe County, and

WHEREAS, the plaintiffs and the school board have entered into a stipulation of settlement by which both parties agree that Joshua will seek a claim bill under which the school board will pay \$2.5 million above the amount already paid to settle claims relating to this matter, and

WHEREAS, the agreement further specifies the payment schedule that is to be followed, 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. (1) The District School Board of Monroe County is authorized and directed to appropriate from funds not otherwise appropriated, and to draw a warrant payable to the guardian of Joshua England, a minor, for the total amount of \$2.5 million for injuries and damages sustained due to the negligence of employees of the school district. This amount shall be paid as follows:

(a) On the first July 1 after the effective date of this act, the balance remaining from the sum of \$800,000, after payment of statutory attorney's fees and costs and any outstanding medical liens, shall be placed in a Special Needs Trust created for the exclusive use and benefit of Joshua England, a minor, to compensate him for injures and damages sustained; and

(b) On July 1, one year after the initial payment of \$800,000 is made, \$700,000 is to be placed into the Special Needs Trust for the exclusive use and benefit of Joshua England; and

(c) On each consecutive July 1 commencing after the \$700,000 payment is made, and for 5 years thereafter, \$200,000 shall be placed into the Special Needs Trust for the exclusive use and benefit of Joshua England, until an additional cumulative sum of \$1,000,000 is paid.

(2) If Joshua England dies prior to payment of any sums required in paragraph (1)(c), any unpaid sums due at the time of his death are forfeited on a pro-rated basis for the year of death, and thereafter, the District School Board of Monroe County is not obligated to make any additional payments.

(3) Any funds remaining in the Special Needs Trust at the time of Joshua England's death, after the payment of any outstanding Medicaid liens, shall revert to the District School Board of Monroe County.

(4) At least one trustee of the Special Needs Trust established for the benefit of Joshua England must possess financial and trust management experience, and may not be a relative of Joshua England. The term "relative" as used in this subsection means a parent, grandparent, sibling, cousin, aunt, uncle, niece or nephew, whether related by whole or half blood, by affinity, or by adoption.

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

Approved by the Governor June 5, 2002.

Filed in Office Secretary of State June 5, 2002.