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March 21, 2023

The Honorable Kathleen Passidomo, Senate President  
404 South Monroe Street  
Tallahassee, FL 32399-1100

RE: Sovereign Immunity, SB604, HB 401

Honorable Senate President Kathleen Passidomo,

Please allow this letter to serve as an urgent request on behalf of the Levy County Board of County Commissioners' regarding our urgent and grave concerns regarding current House Bill proposing to completely eliminate the Sovereign Immunity cap, and Senate Bill 604, proposing to increase the sovereign immunity cap from \$200,000/\$300,000 up to \$400,000/\$600,000, both of which are currently being evaluated in the Senate and House subcommittees.

As it pertains to both bills, each of these bills would either increase the sovereign immunity tort cap limit from the current \$200,000 per person/\$300,000 per occurrence limit, up to the sum of \$400,000 per person and with \$600,000 per occurrence limit, or in the case of HB 401, the monetary cap would be completely eliminated. Due to the fact that these bills will increase our governmental entity's economic exposure for tort claims by a minimum of between 15% - 40% for Senate Bill 604, and by a minimum of between 30% - 100% for House Bill 401 if the sovereign immunity cap is completely eliminated, these bills will have both have a tremendously adverse economic impact for our entity, and also its residents, due to necessary and significant tax increases, increased liability coverage premiums, increase in litigation against Levy County, as well as a potential reduction in services by Levy County in order to reduce adverse liability exposures.

In addition, Senate Bill 604 and House Bill 401 seek to link the sovereign immunity tort cap limit to the Consumer Price Index (CPI) and which would essentially increase our sovereign immunity liability exposure each and every year going forward.

As you may be aware, Levy County is a member of a self-insured intergovernmental risk pool, as are many other local governmental entities, special taxing districts and charter schools, and is a member of, and utilizes, a self-insurance fund for the very purpose of limiting our economic exposure to tort litigation due to the high costs of securing insurance in the open market. In addition, Levy County, through its self-insurance fund, also secures excess insurance above and beyond its self-insurance retention levels. Senate Bill 604 and House Bill 401 would therefore have both an adverse impact upon Levy County both in an increased economic exposure for adverse civil judgments and/or settlements of tort claims, but will also likely see a substantial increase in insurance premiums from our excess carriers.

Levy County, as well as most other local governmental entities, special districts and charter schools, are already facing difficult, if not impossible, budgeting issues to provide current services along with repairing and maintaining or replacing current infrastructure projects. Should Senate Bill 604 or House Bill 401 pass, already overstretched tax dollars will be further restricted to cover increased tort liability exposure and insurance costs, and may very well result in Levy County or other local governmental entities having to reduce or restrict their programs and services to only those deemed necessary and/or mandatory in order to both limit tort liability from the general public, and to reduce expenditures in order to ensure sufficient funds to be on hand due to the increase in sovereign immunity cap limits.

Although Senate Bill 604 and House Bill 401 were submitted to potentially reduce claims bills going before the Florida Legislature, the sovereign immunity cap limits currently in place serve as a very important restriction and minimization of lawsuits against Levy County, the State of Florida, and all other local governmental entities, while still providing a sufficient remedy in tort for an injured/damaged Plaintiff, but without providing either a windfall, or incentive to sue the government while it is carrying out its necessary governmental functions.

We therefore strongly ask and encourage you to oppose Senate Bill 604 and House Bill 401, or any subsequent amendment which would alter Levy County's overall liability, economic exposures or increase the current sovereign immunity cap limits currently being imposed by Fla. Stat. § 768.28.

These bills would have a significant fiscal impact on the state and local governments, including Levy County, and would result in severely increased liability exposure for the following reasons:

- Increased number of civil claims filed against local governmental entities;
- Waiver of sovereign immunity and the sovereign immunity tort cap limit and permitting recovery of potentially unlimited monetary damages, including punitive damages;
- Exposure to prevailing party attorney fees;
- Exposure to prevailing party expert witness fees;
- Exposure to punitive damage awards.

Thank you again for allowing us this opportunity to speak with you and raise these dire concerns regarding these proposed Bills. Should you wish to speak further, please do not hesitate to contact me.

Sincerely,

Matthew Brooks, Chairman  
Levy County Board of County Commissioners

Cc: Speaker Paul Renner, Governor Ron DeSantis, Senator Keith Perry, Representative Chuck Clemons, Sr.