

By the Committee on Governmental Reform and Oversight and  
Senator Ostalkiewicz

302-2055-98

1                                   A bill to be entitled  
2           An act relating to state government; amending  
3           s. 255.05, F.S.; providing for the maintenance  
4           of actions in law and in equity for breach of  
5           contract on public works projects; providing  
6           legislative intent; providing duties of  
7           procuring agencies relating to procurement  
8           contracts; imposing certain duties on the  
9           Comptroller; providing application; providing  
10          an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Subsection (8) is added to section 255.05,  
15 Florida Statutes, to read:

16           255.05 Bond of contractor constructing public  
17 buildings; form; action by materialmen.--

18           (8) On any public works project on which the public  
19 authority requires a performance and payment bond, suits at  
20 law and in equity may be brought and maintained by and against  
21 the public authority on any contract claim arising from breach  
22 of an express or implied provision of a written agreement or a  
23 written directive issued by the public authority pursuant to  
24 the written agreement. In any such suit, the public authority  
25 and the contractor shall have all of the same rights,  
26 obligations, remedies, and defenses as a private person under  
27 a like contract, except that no liability may be based on an  
28 oral modification of the written contract or written  
29 directive. Notwithstanding anything to the contrary contained  
30 in this section, no employee or agent of the public authority  
31 may be held personally liable to an extent greater than that

1 pursuant to s. 768.28, and no suit sounding in tort shall be  
2 maintained against the public authority.

3 Section 2. It is the intent of the Legislature that  
4 the Comptroller have access to and annually publish the amount  
5 of dollars spent by this state in the labor portion of  
6 state-contracted services to serve as a benchmark and  
7 measurement tool of state-contracted employment.

8 (1) As a condition of each procurement contract in  
9 excess of the threshold amount provided in section 287.017,  
10 Florida Statutes, for CATEGORY FOUR entered into after  
11 December 31, 1998, the procuring agency shall require the  
12 successful contractor to provide estimates of the number of  
13 full-time-equivalent positions, or fractions thereof, and the  
14 amount of dollars represented by the labor portion, including  
15 salary and benefits, of each contract. The procuring agency  
16 shall record such estimates in the State Automated Management  
17 Accounting Subsystem in accordance with procedures prescribed  
18 by the Comptroller.

19 (2) The Comptroller shall include in the State  
20 Automated Management Accounting Subsystem the capability to  
21 prepare reports containing the estimates of the number of  
22 full-time-equivalent positions and labor dollars for contracts  
23 entered into the system by agencies after December 31, 1998.  
24 The Comptroller shall publish such information annually.

25 (3) This section does not apply to contracts for the  
26 purchase of commodities as defined in section 287.012, Florida  
27 Statutes, but applies to all other contracts entered into by  
28 the state, including, but not limited to, contracts for social  
29 services, road design and construction, building construction,  
30 management consulting services, and public-private  
31 partnerships.

1           Section 3. This act shall take effect July 1, 1998,  
2 except that section 2 shall take effect after the Governor, in  
3 consultation with the cabinet, issues an executive order  
4 pursuant to section 252.36, Florida Statutes, to make the  
5 necessary change to the State Automated Management Accounting  
6 Subsystem as provided by section 14.025, Florida Statutes, as  
7 created by the act, or July 1, 2000, whichever occurs earlier.

8  
9                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
10   COMMITTEE SUBSTITUTE FOR  
11   Senate Bill 676

12 The committee substitute provides that suits at law and in  
13 equity may be brought and maintained by and against a public  
14 authority on any breach of contract that can be substantiated  
15 through the express or implied provision of a written  
16 contract.

17 This act shall take effect July 1, 1998, except that section 2  
18 shall take effect after the Governor, in consultation with the  
19 cabinet, issues an executive order pursuant to s. 252.36,  
20 Florida Statutes, to make the necessary change to the State  
21 Automated Management Accounting Subsystem as provided by s.  
22 14.025, Florida Statutes, as created by the act or July 1,  
23 2000, whichever occurs earlier.  
24  
25  
26  
27  
28  
29  
30  
31