

By Senators Sebesta, Casas, Lee, Latvala and Clary

20-480-99

See HB

1 A bill to be entitled
 2 An act relating to suits by and against the
 3 Department of Transportation; amending s.
 4 337.19, F.S.; revising provisions governing
 5 suits at law and in equity brought by or
 6 against the department with respect to breach
 7 of an express provision or an implied covenant
 8 of a written agreement or a written directive
 9 issued by the department pursuant to the
 10 written agreement; providing for rights,
 11 obligations, remedies, and defenses;
 12 prohibiting liability under certain
 13 circumstances; providing exceptions with
 14 respect to liability; providing an effective
 15 date.

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

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 19 Section 1. Section 337.19, Florida Statutes, is
 20 amended to read:

21 337.19 Suits by and against department; limitation of
 22 actions; forum.--

23 (1) Suits at law and in equity may be brought and
 24 maintained by and against the department on any contract claim
 25 arising from breach of an express provision or an implied
 26 covenant of a written agreement or a written directive issued
 27 by the department pursuant to the written agreement. In any
 28 such suit, the department and the contractor shall have all of
 29 the same rights, obligations, remedies, and defenses as a
 30 private person under a like contract, except that no liability
 31 may be based on an oral modification of either the written

1 contract or written directive. This section shall not be
2 construed to in any way prohibit the department from limiting
3 its liability or damages through provisions in its contracts.
4 Notwithstanding anything to the contrary contained in this
5 section, no employee or agent of the department may be held
6 personally liable to an extent greater than that pursuant to
7 s. 768.28, ~~under contract for work done,~~ provided, that no
8 suit sounding in tort shall be maintained against the
9 department.

10 (2) Suits by and against the department under this
11 section shall be commenced within 820 days of the final
12 acceptance of the work. This section shall apply to all
13 contracts entered into after June 30, 1993.

14 (3) Any action or suit brought against the department
15 shall be brought in the county or counties where the cause of
16 action accrued, or in the county of the department's district
17 headquarters responsible for the work, or in Leon County.

18 Section 2. This act shall take effect upon becoming a
19 law.

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22 LEGISLATIVE SUMMARY

23 Provides that suits at law and in equity may be brought
24 and maintained by and against the Department of
25 Transportation on any contract claim arising from breach
26 of an express provision or implied covenant of a written
27 agreement or a written directive issued by the department
28 pursuant to the written agreement. Provides that, in any
29 such suit, the department and the contractor shall have
30 all of the same rights, obligations, remedies, and
31 defenses as a private person under a like contract,
except that no liability may be based on an oral
modification of either the written contract or written
directive. Provides that the act shall not be construed
to in any way prohibit the department from limiting its
liability or damages through provisions in its contracts.
Limits liability of employees or agents of the
department. (See bill for details.)