

By the Committee on Fiscal Policy and Senators Sebesta, Lee, Casas, Latvala and Clary

309-1863-99

1 A bill to be entitled
2 An act relating to suits by and against the
3 Department of Transportation and public
4 authorities; amending s. 337.19, F.S.; revising
5 provisions governing suits at law and in equity
6 brought by or against the department with
7 respect to breach of an express provision or an
8 implied covenant of a written agreement or a
9 written directive issued by the department
10 pursuant to the written agreement; providing
11 for rights and obligations; prohibiting
12 liability under certain circumstances;
13 providing exceptions with respect to liability;
14 amending s. 255.05, F.S.; specifying conditions
15 under which suits may be brought by and against
16 a public authority with respect to specified
17 public works projects; providing for rights and
18 obligations of the public authority and the
19 contractor; excluding specified basis of
20 liability; providing for construction of the
21 act; providing an effective date.

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

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25 Section 1. Subsection (1) of section 337.19, Florida
26 Statutes, is amended to read:

27 337.19 Suits by and against department; limitation of
28 actions; forum.--

29 (1) Suits at law and in equity may be brought and
30 maintained by and against the department on any contract claim
31 arising from breach of an express provision or an implied

1 covenant of a written agreement or a written directive issued
2 by the department pursuant to the written agreement. In any
3 such suit, the department and the contractor shall have all of
4 the same rights and obligations as a private person under a
5 like contract, except that no liability may be based on an
6 oral modification of either the written contract or written
7 directive. This section shall not be construed to waive the
8 sovereign immunity of the state and its political subdivisions
9 against equitable claims and equitable remedies.
10 Notwithstanding anything to the contrary contained in this
11 section, no employee or agent of the department may be held
12 personally liable to an extent greater than that pursuant to
13 s. 768.28, ~~under contract for work done;~~ provided, that no
14 suit sounding in tort shall be maintained against the
15 department.

16 Section 2. Subsection (9) is added to section 255.05,
17 Florida Statutes, 1998 Supplement, to read:

18 255.05 Bond of contractor constructing public
19 buildings; form; action by materialmen.--

20 (9) On any public works project for which the public
21 authority requires a performance and payment bond, suits at
22 law and in equity may be brought and maintained by and against
23 the public authority on any contract claim arising from breach
24 of an express provision or an implied covenant of a written
25 agreement or a written directive issued by the public
26 authority pursuant to the written agreement. In any such suit,
27 the public authority and the contractor shall have all of the
28 same rights and obligations as a private person under a like
29 contract, except that no liability may be based on an oral
30 modification of either the written contract or written
31 directive. However, this subsection shall not be construed to

1 waive the sovereign immunity of the state and its political
2 subdivisions against equitable claims and equitable remedies.

3 Section 3. This act shall take effect upon becoming a
4 law, except that section 2 shall take effect July 1, 1999, and
5 apply only to contracts entered on or after that date.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SBs 0240 and 810

10 Consolidates the changes proposed to sections 337.19 and
11 255.05 in SB 240 and SB 810.

12 Specifies the conditions under which suits may be brought by
13 and against the Department of Transportation on contract
14 claims and on any public works project for which the authority
15 requires a performance and payment bond.
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