

By Senator Lee

23-732-99

See HB

1 A bill to be entitled
2 An act relating to public property and publicly
3 owned buildings; amending s. 255.05, F.S.;
4 specifying conditions under which suits may be
5 brought by and against a public authority with
6 respect to specified public works projects;
7 providing for rights, obligations, remedies,
8 and defenses of the public authority and the
9 contractor; excluding specified basis of
10 liability; providing for construction of the
11 act; limiting extent of liability for any
12 employee or agent of the public authority;
13 providing an effective date.

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

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17 Section 1. Subsection (9) is added to section 255.05,
18 Florida Statutes, 1998 Supplement, to read:

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

21 (9) On any public works project for which the public
22 authority requires a performance and payment bond, suits at
23 law and in equity may be brought and maintained by and against
24 the public authority on any contract claim arising from breach
25 of an express provision or an implied covenant of a written
26 agreement or a written directive issued by the public
27 authority pursuant to the written agreement. In any such suit,
28 the public authority and the contractor shall have all of the
29 same rights, obligations, remedies, and defenses as a private
30 person under a like contract, except that no liability may be
31 based on an oral modification of either the written contract

1 or written directive. However, this subsection shall not be
2 construed to in any way prohibit the public authority from
3 limiting its liability or damages through provisions in its
4 contracts. Notwithstanding anything to the contrary contained
5 in this subsection, no employee or agent of the public
6 authority may be held personally liable to an extent greater
7 than the limits prescribed by s. 768.28.

8 Section 2. This act shall take effect upon becoming a
9 law.

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11 HOUSE SUMMARY

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13 With respect to public works projects for which a public
14 authority requires a performance and payment bond,
15 specifies conditions under which suits may be brought by
16 and against the public authority. Provides for rights,
17 obligations, remedies, and defenses of the public
18 authority and the contractor. Excludes specified basis of
19 liability. Provides for construction of the act. Limits
20 extent of liability for any employee or agent of the
21 public authority.
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