

By the Committee on Governmental Oversight and Productivity;
and Senator Clary

302-2145-03

1 A bill to be entitled
2 An act relating to construction monitoring and
3 inspection services; amending s. 768.28, F.S.;
4 providing that professional firms under
5 contract with the Department of Transportation
6 to provide specified construction monitoring
7 and inspection services are agents of the state
8 for purposes of sovereign immunity; providing
9 for indemnification; providing that such agents
10 are not employees or agents of the state for
11 purposes of chapter 440, F.S.; providing that
12 the act does not apply to such a firm or its
13 employees if an accident occurs while an
14 employee is operating a vehicle or to a firm
15 providing design or construction services;
16 providing an effective date.

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

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20 Section 1. Paragraph (e) is added to subsection (10)
21 of section 768.28, Florida Statutes, to read:

22 768.28 Waiver of sovereign immunity in tort actions;
23 recovery limits; limitation on attorney fees; statute of
24 limitations; exclusions; indemnification; risk management
25 programs.--

26 (10)

27 (e) For purposes of this section, a professional firm
28 that provides monitoring and inspection services of the work
29 required for state roadway, bridge, or other transportation
30 facility construction projects, or any of the firm's employees
31 performing such services, shall be considered agents of the

1 Department of Transportation while acting within the scope of
2 the firm's contract with the Department of Transportation to
3 ensure that the project is constructed in conformity with the
4 project's plans, specifications, and contract provisions. Any
5 contract between the professional firm and the state, to the
6 extent permitted by law, shall provide for the indemnification
7 of the state by the agent for any liabilities incurred up to
8 the limits set out in this chapter. This paragraph shall not
9 be construed as designating persons who provide monitoring and
10 inspection services as employees or agents of the state for
11 purposes of chapter 440. This paragraph is not applicable to
12 the professional firm or its employees if involved in an
13 accident while operating a motor vehicle. This paragraph is
14 not applicable to a firm engaged by the Department of
15 Transportation for the design or construction of a state
16 roadway, bridge, or other transportation facility construction
17 project or to its employees, agents, or subcontractors.

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

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1138

24 Provides that professional firms, which supply monitoring and
25 inspection services to the Department of Transportation, shall
26 be considered agents in specified circumstances for purposes
27 of sovereign immunity. Requires agents to indemnify the
28 department. Clarifies that agent status does not apply in
29 context of ch. 440, F.S. Provides that paragraph does not
30 apply to the agents if involved in an accident when operating
31 a motor vehicle or to firms providing design or construction
services.