

Bill No. CS for CS for SB 2658

Amendment No. \_\_\_\_ Barcode 032234

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 99, between lines 23 and 24,		
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16	insert:		
17	Section 49. Paragraph (e) is added to subsection (10)		
18	of section 768.28, Florida Statutes, to read:		
19	768.28 Waiver of sovereign immunity in tort actions;		
20	recovery limits; limitation on attorney fees; statute of		
21	limitations; exclusions; indemnification; risk management		
22	programs.--		
23	(10)		
24	<u>(e) For purposes of this section, a professional firm</u>		
25	<u>that provides monitoring and inspection services of the work</u>		
26	<u>required for state roadway, bridge, or other transportation</u>		
27	<u>facility construction projects, or any of the firm's employees</u>		
28	<u>performing such services, shall be considered agents of the</u>		
29	<u>Department of Transportation while acting within the scope of</u>		
30	<u>the firm's contract with the Department of Transportation to</u>		
31	<u>ensure that the project is constructed in conformity with the</u>		

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

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18 (Redesignate subsequent sections.)  
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20  
21 ===== T I T L E    A M E N D M E N T =====

22 And the title is amended as follows:

23            On page 5, line 29, after the semicolon  
24  
25 insert:  
26            amending s. 768.28, F.S.; providing that  
27            professional firms under contract with the  
28            Department of Transportation to provide  
29            specified construction monitoring and  
30            inspection services are agents of the state for  
31            purposes of sovereign immunity; providing for

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1 indemnification; providing that such agents are  
2 not employees or agents of the state for  
3 purposes of chapter 440, F.S.; providing that  
4 the act does not apply to such a firm or its  
5 employees if an accident occurs while an  
6 employee is operating a vehicle or to a firm  
7 providing design or construction services;

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