

Bill No. CS for CS for SB 460

Barcode 194938

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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The Committee on Transportation and Economic Development  
Appropriations (Sebesta) recommended the following amendment:

**Senate Amendment**

On page 16, line 10 through page 17, line 3, delete  
those lines

and insert:

(2) A contractor who constructs, maintains, or repairs  
a highway, road, street, bridge, or other transportation  
facility for the Department of Transportation is not liable to  
a claimant for personal injury, property damage, or death  
arising from the performance of the construction, maintenance,  
or repair if, at the time of the personal injury, property  
damage, or death, the contractor was in compliance with  
contract documents material to the condition that was the  
proximate cause of the personal injury, property damage, or  
death.

(a) The limitation on liability contained in this  
subsection does not apply when the proximate cause of the  
person injury, property damage, or death is found to be a

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1 latent condition, defect, error or omission that was created  
2 by the contractor and not a defect, error or omission in the  
3 contract documents.

4 (b) If an error or omission in the contract documents  
5 is open and obvious, nothing in this subsection shall be  
6 interpreted or construed as relieving the contractor of any  
7 obligation to provide the Department of Transportation with  
8 written notice of the error or omission.

9 (c) Nothing in this subsection shall be interpreted or  
10 construed to alter or affect any claim of the Department of  
11 Transportation against such contractor.

12 (3) In all cases involving personal injury, property  
13 damage, or death, a person or entity who contracts to prepare  
14 or provide engineering plans for the construction or repair of  
15 a highway, road, street, bridge, or other transportation  
16 facility for the Department of Transportation shall be  
17 presumed to have prepared such engineering plans using the  
18 degree of care and skill ordinarily exercised by other  
19 engineers in the field under similar conditions and in similar  
20 localities and with due regard for acceptable engineering  
21 standards and principles if the engineering plans conformed to  
22 the Department of Transportation's design standards material  
23 to the condition or defect that was the proximate cause of the  
24 person injury, property damage, or death. This presumption can  
25 be overcome only upon a showing of the person's or entity's  
26 gross negligence in the preparation of the engineering plans  
27 and shall not be interpreted or construed to alter or affect  
28 any claim of the Department of Transportation against such  
29 person or entity.

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