



899040

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

The Committee on Fiscal Policy (Boyd) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 20 - 87

and insert:

Section 1. Subsection (8) is added to section 287.058,  
Florida Statutes, to read:

287.058 Contract document.—

(8) In addition to any other provision required to be  
included, the written agreement for a procurement of contractual  
services in excess of the threshold amount provided in s.  
287.017 for CATEGORY TWO must include the following limitation



899040

12 of liability provision for breach of contract:

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability for direct damages under a contract or purchase order shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of the agreement or any section of the agreement relating to insurance for the provision of Professional Services as defined in section 287.055, Florida Statutes, unless otherwise agreed to by the parties to the contract. Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due the Contractor as may be



899040

41       necessary to satisfy any claim for damages, penalties,  
42       costs and the like asserted by or against them. The  
43       State may set off any liability or other obligation of  
44       the Contractor or its affiliates to the State against  
45       any payments due the Contractor under any contract  
46       with the State.

47

48 ===== T I T L E   A M E N D M E N T =====

49 And the title is amended as follows:

50       Delete lines 3 - 10

51 and insert:

52       287.058, F.S.; requiring that certain procurement  
53       agreements or purchase orders include a specified  
54       provision; reenacting ss.