

By Senator Bradley

6-00427A-24

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1 A bill to be entitled
 2 An act relating to sovereign immunity; amending s.
 3 768.28, F.S.; providing that professional firms or
 4 their employees when performing specified services for
 5 certain public projects are considered agents of the
 6 state or its applicable subdivision when acting within
 7 the scope of their contract; revising applicability;
 8 requiring that contracts with such firms must, to the
 9 extent permitted by law, provide indemnity to the
 10 state or its applicable subdivision; providing
 11 applicability; making technical changes; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Paragraph (e) of subsection (10) of section
 17 768.28, Florida Statutes, is amended to read:

18 768.28 Waiver of sovereign immunity in tort actions;
 19 recovery limits; civil liability for damages caused during a
 20 riot; limitation on attorney fees; statute of limitations;
 21 exclusions; indemnification; risk management programs.-

22 (10)

23 (e) For purposes of this section, a professional firm that
 24 provides monitoring and inspection services of the work required
 25 for state roadway, bridge, or other transportation facility
 26 construction projects, or any employee of a firm ~~the firm's~~
 27 ~~employees~~ performing such services, is ~~shall be~~ considered an
 28 agent ~~agents~~ of the state or of its applicable subdivision
 29 ~~Department of Transportation~~ while acting within the scope of

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30 the firm's contract ~~with the Department of Transportation~~ to
31 ensure that the project is constructed in conformity with the
32 project's plans, specifications, and contract provisions. This
33 paragraph applies to a professional firm in direct contract with
34 the state or any of its subdivisions, as well as any
35 professional firm providing monitoring and inspection services
36 as a subconsultant. Any contract with a ~~between the~~ professional
37 firm must ~~and the state~~, to the extent permitted by law, ~~shall~~
38 provide for the indemnification of the state or its applicable
39 subdivision ~~department~~ for any liability, including reasonable
40 attorney ~~attorney's~~ fees, incurred up to the limits set out in
41 this chapter to the extent caused by the negligence of the firm
42 or its employees. This paragraph may ~~shall~~ not be construed as
43 designating persons who provide monitoring and inspection
44 services as employees or agents of the state for purposes of
45 chapter 440. This paragraph is not applicable to the
46 professional firm or its employees if involved in an accident
47 while operating a motor vehicle. This paragraph is not
48 applicable to a firm engaged by the state or by any of its
49 subdivisions ~~Department of Transportation~~ for the design or
50 construction of a state roadway, bridge, or other transportation
51 facility construction project or to its employees, agents, or
52 subcontractors.

53 Section 2. This act shall take effect July 1, 2024.