

Committee Substitute for  
Committee Substitute for Senate Bill No. 1138

An act relating to construction monitoring and inspection services; amending s. 768.28, F.S.; providing that professional firms under contract with the Department of Transportation to provide specified construction monitoring and inspection services are agents of the state for purposes of sovereign immunity; providing for indemnification; providing that such agents are not employees or agents of the state for purposes of chapter 440, F.S.; providing that the act does not apply to such a firm or its employees if an accident occurs while an employee is operating a vehicle or to a firm providing design or construction services; providing an effective date.

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

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

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(e) For purposes of this section, a professional firm that provides monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm's employees performing such services, shall be considered agents of the Department of Transportation while acting within the scope of the firm's contract with the Department of Transportation to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions. Any contract between the professional firm and the state, to the extent permitted by law, shall provide for the indemnification of the department for any liability, including reasonable attorney's fees, incurred up to the limits set out in this chapter to the extent caused by the negligence of the firm or its employees. This paragraph shall not be construed as designating persons who provide monitoring and inspection services as employees or agents of the state for purposes of chapter 440. This paragraph is not applicable to the professional firm or its employees if involved in an accident while operating a motor vehicle. This paragraph is not applicable to a firm engaged by the Department of Transportation for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor July 15, 2003.

Filed in Office Secretary of State July 15, 2003.