Florida House of Representatives - 1999 CS/HB 311 & CS/HB 243

By the Committee on Judiciary, Representative Fuller, the Committee on Governmental Operations and Representatives Trovillion, Fasano, Posey, Sublette, Jones and Ball

1	A bill to be entitled
2	An act relating to suits by and against the
3	Department of Transportation and public
4	authorities; amending s. 337.19, F.S.; revising
5	language with respect to suits at law and in
6	equity brought by or against the department
7	with respect to breach of an express provision
8	or an implied covenant of a written agreement
9	or a written directive issued by the department
10	pursuant to the written agreement; providing
11	for rights and obligations; prohibiting
12	liability under certain circumstances;
13	providing exceptions with respect to liability;
14	amending s. 255.05, F.S.; specifying conditions
15	under which suits may be brought by and against
16	a public authority with respect to specified
17	public works projects; providing for rights and
18	obligations of the public authority and the
19	contractor; excluding specified basis of
20	liability; providing for construction of the
21	act; providing effective dates.
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23	Be It Enacted by the Legislature of the State of Florida:
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25	Section 1. Subsection (1) of section 337.19, Florida
26	Statutes, is amended to read:
27	337.19 Suits by and against department; limitation of
28	actions; forum
29	(1) Suits at law and in equity may be brought and
30	maintained by and against the department on any contract claim
31	arising from breach of an express provision or an implied
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covenant of a written agreement or a written directive issued 1 2 by the department pursuant to the written agreement. In any 3 such suit, the department and the contractor shall have all of the same rights and obligations as a private person under a 4 5 like contract except that no liability may be based on an oral modification of either the written contract or written 6 7 directive. Nothing herein shall be construed to waive the 8 sovereign immunity of the state and its political subdivisions 9 from equitable claims and equitable remedies. Notwithstanding 10 anything to the contrary contained in this section, no 11 employee or agent of the department may be held personally 12 liable to an extent greater than that pursuant to s. 768.28 13 under contract for work done; provided, that no suit sounding 14 in tort shall be maintained against the department. Section 2. Effective July 1, 1999, subsection (9) is 15 16 added to section 255.05, Florida Statutes, 1998 Supplement, to 17 read: 255.05 Bond of contractor constructing public 18 buildings; form; action by materialmen.--19 20 (9) On any public works project for which the public 21 authority requires a performance and payment bond, suits at 22 law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach 23 of an express provision or an implied covenant of a written 24 agreement or a written directive issued by the public 25 26 authority pursuant to the written agreement. In any such 27 suit, the public authority and the contractor shall have all 28 of the same rights and obligations as a private person under a 29 like contract except that no liability may be based on an oral modification of either the written contract or written 30 directive. Nothing herein shall be construed to waive the 31

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1	sovereign immunity of the state and its political subdivisions
2	from equitable claims and equitable remedies. The provisions
3	of this subsection shall apply only to contracts entered into
4	on or after July 1, 1999.
5	Section 3. Except as otherwise provided herein, this
6	act shall take effect upon becoming law.
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