

By the Committee on Judiciary; and Senator Bradley

590-02609-24

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1 A bill to be entitled

2 An act relating to sovereign immunity; amending s.  
3 768.28, F.S.; revising applicability; requiring that  
4 contracts with such firms must, to the extent  
5 permitted by law, provide indemnity to the department;  
6 making technical changes; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Paragraph (e) of subsection (10) of section  
11 768.28, Florida Statutes, is amended to read:

12 768.28 Waiver of sovereign immunity in tort actions;  
13 recovery limits; civil liability for damages caused during a  
14 riot; limitation on attorney fees; statute of limitations;  
15 exclusions; indemnification; risk management programs.—

16 (10)

17 (e) For purposes of this section, a professional firm that  
18 provides monitoring and inspection services of the work required  
19 for state roadway, bridge, or other transportation facility  
20 construction projects, or any employee of a firm ~~the firm's~~  
21 ~~employees~~ performing such services, is ~~shall be~~ considered an  
22 agent ~~agents~~ of the Department of Transportation while acting  
23 within the scope of the firm's contract with the Department of  
24 Transportation to ensure that the project is constructed in  
25 conformity with the project's plans, specifications, and  
26 contract provisions. This paragraph applies to a professional  
27 firm in direct contract with the department, as well as any  
28 professional firm providing monitoring and inspection services  
29 as a consultant to the professional firm that is in direct

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

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