

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

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 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  
 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 consultant to a professional firm in direct contract with  
 37 the state or any of its subdivisions. Any contract with a  
 38 ~~between the~~ professional firm must ~~and the state,~~ to the extent  
 39 permitted by law, ~~shall~~ provide for the indemnification of the  
 40 state or its applicable subdivision ~~department~~ for any  
 41 liability, including reasonable attorney ~~attorney's~~ fees,  
 42 incurred up to the limits set out in this chapter to the extent  
 43 caused by the negligence of the firm or its employees. This  
 44 paragraph may ~~shall~~ not be construed as designating persons who  
 45 provide monitoring and inspection services as employees or  
 46 agents of the state for purposes of chapter 440. This paragraph  
 47 is not applicable to the professional firm or its employees if  
 48 involved in an accident while operating a motor vehicle. This  
 49 paragraph is not applicable to a firm engaged by the state or by  
 50 any of its subdivisions ~~Department of Transportation~~ for the

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51 | design or construction of a state roadway, bridge, or other  
52 | transportation facility construction project or to its  
53 | employees, agents, or subcontractors.

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