

AN ACT

relating to liability of engineers and certain business entities performing construction monitoring and inspection services for the Texas Department of Transportation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 97, Civil Practice and Remedies Code, is amended by adding Section 97.003 to read as follows:

Sec. 97.003. LIMIT ON LIABILITY OF CONSTRUCTION MONITORING AND INSPECTION SERVICES. (a) In this section:

(1) "Business entity" means an entity registered under Section 1001.405, Occupations Code.

(2) "Complied with the obligations under the contract" means:

(A) performing the monitoring and inspection required by a contract; and

(B) notifying the department, as required by the contract, of any unsafe condition or operation that the person becomes aware of in the normal course of providing the services under the contract.

(3) "Department" means the Texas Department of Transportation.

(4) "Engineer" has the meaning assigned by Section 1001.002, Occupations Code.

(b) This section applies to a business entity, an officer or

1 employee of a business entity, or an engineer that provides
2 services as a consultant or subconsultant of the department to
3 monitor and inspect the progress of work on a transportation
4 construction or maintenance project performed by a private
5 contractor and report to the department regarding the contractor's
6 compliance with the department's requirements for the project.

7 (c) A person to whom this section applies is not liable to a
8 claimant for personal injury, property damage, or death arising
9 from an act or omission performed in the course and scope of the
10 person's duties with respect to a project if:

11 (1) the person does not have authority to direct the
12 operations of the contractor or subcontractor to be monitored or
13 inspected and otherwise had no control of any of the following:

14 (A) the construction, means, methods,
15 techniques, sequences, or procedures of the contractor or
16 subcontractor;

17 (B) the safety precautions or programs of the
18 contractor or subcontractor; or

19 (C) any other person who performs the work of the
20 contractor or subcontractor to be monitored or inspected; and

21 (2) the person performing the monitoring and
22 inspecting substantially complied with the obligations under the
23 contract with the department.

24 (d) Subsection (c) does not apply to a cause of action for
25 gross negligence or wilful or wanton conduct.

26 SECTION 2. The change in law made by this Act applies only
27 to a cause of action that accrues on or after the effective date of

1 this Act.

2 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3156 was passed by the House on April 27, 2023, by the following vote: Yeas 122, Nays 24, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3156 was passed by the Senate on May 21, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor