

1-1 By: Leach (Senate Sponsor - LaMantia) H.B. No. 3156
 1-2 (In the Senate - Received from the House May 1, 2023;
 1-3 May 1, 2023, read first time and referred to Committee on
 1-4 Transportation; May 17, 2023, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 17, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to liability of engineers and certain business entities
 1-20 performing construction monitoring and inspection services for the
 1-21 Texas Department of Transportation.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 97, Civil Practice and Remedies Code, is
 1-24 amended by adding Section 97.003 to read as follows:

1-25 Sec. 97.003. LIMIT ON LIABILITY OF CONSTRUCTION MONITORING
 1-26 AND INSPECTION SERVICES. (a) In this section:

1-27 (1) "Business entity" means an entity registered under
 1-28 Section 1001.405, Occupations Code.

1-29 (2) "Complied with the obligations under the contract"
 1-30 means:

1-31 (A) performing the monitoring and inspection
 1-32 required by a contract; and

1-33 (B) notifying the department, as required by the
 1-34 contract, of any unsafe condition or operation that the person
 1-35 becomes aware of in the normal course of providing the services
 1-36 under the contract.

1-37 (3) "Department" means the Texas Department of
 1-38 Transportation.

1-39 (4) "Engineer" has the meaning assigned by Section
 1-40 1001.002, Occupations Code.

1-41 (b) This section applies to a business entity, an officer or
 1-42 employee of a business entity, or an engineer that provides
 1-43 services as a consultant or subconsultant of the department to
 1-44 monitor and inspect the progress of work on a transportation
 1-45 construction or maintenance project performed by a private
 1-46 contractor and report to the department regarding the contractor's
 1-47 compliance with the department's requirements for the project.

1-48 (c) A person to whom this section applies is not liable to a
 1-49 claimant for personal injury, property damage, or death arising
 1-50 from an act or omission performed in the course and scope of the
 1-51 person's duties with respect to a project if:

1-52 (1) the person does not have authority to direct the
 1-53 operations of the contractor or subcontractor to be monitored or
 1-54 inspected and otherwise had no control of any of the following:

1-55 (A) the construction, means, methods,
 1-56 techniques, sequences, or procedures of the contractor or
 1-57 subcontractor;

1-58 (B) the safety precautions or programs of the
 1-59 contractor or subcontractor; or

1-60 (C) any other person who performs the work of the
 1-61 contractor or subcontractor to be monitored or inspected; and

2-1 (2) the person performing the monitoring and
2-2 inspecting substantially complied with the obligations under the
2-3 contract with the department.

2-4 (d) Subsection (c) does not apply to a cause of action for
2-5 gross negligence or wilful or wanton conduct.

2-6 SECTION 2. The change in law made by this Act applies only
2-7 to a cause of action that accrues on or after the effective date of
2-8 this Act.

2-9 SECTION 3. This Act takes effect September 1, 2023.

* * * * *

2-10