

1 HB335
2 152999-3
3 By Representatives Ison, McClurkin, Sanderford, Fincher,
4 Sessions, Nordgren, Collins, Carns, Clouse and Hammon
5 RFD: State Government
6 First Read: 21-FEB-13

1 b. A county, city, town, or municipality that
2 appropriates public funds for the construction, repair,
3 resurfacing, refurbishment, replacement, removal,
4 modification, alteration, or other improvement of any public
5 or private infrastructure, including any public-private
6 partnership project, for which construction monitoring
7 services are contracted.

8 c. All other state, county, or municipal boards,
9 bodies, commissions, agencies, departments, institutions, and
10 instrumentalities, and their political subdivisions, that
11 appropriate public funds for the construction, repair,
12 resurfacing, refurbishment, replacement, removal,
13 modification, alteration, or other improvement of any public
14 or private infrastructure, including any public-private
15 partnership project, for which construction monitoring
16 services are contracted.

17 (2) CONSTRUCTION MONITORING SERVICES. The
18 monitoring, review, observation, or inspection of the
19 contractor's work on behalf of the awarding authority to
20 determine the contractor's compliance with the plans and
21 specifications issued for that project, sometimes referenced
22 in the industry as "construction engineering inspection."

23 (3) PLANS AND SPECIFICATIONS. Engineering designs,
24 drawings, plans and specifications, or other design products
25 prepared by or on behalf of an awarding authority by a
26 licensed and registered professional engineer, and issued to a
27 contractor by the awarding authority for the purpose of

1 constructing, repairing, resurfacing, refurbishing, removing,
2 replacing, modifying, altering, or otherwise improving any
3 public or private infrastructure.

4 (4) PROFESSIONAL FIRM. A corporation, company,
5 partnership, sole proprietorship, professional corporation,
6 limited liability company, or other entity that is duly
7 qualified by the Secretary of State to conduct business in
8 Alabama, and that has been issued a certificate of
9 authorization by the State of Alabama Board of Licensure for
10 Professional Engineers and Land Surveyors pursuant to Title
11 34, Chapter 11, Code of Alabama 1975, to engage in the
12 practice of engineering.

13 (5) PUBLIC OR PRIVATE INFRASTRUCTURE. Shall include
14 but not be limited to highways, roads, streets, overpasses,
15 bridges, utilities, rights-of-way, airports, runways and
16 taxiways, water ports, waterways, bays, rivers, and streams,
17 railways, and all other assets or conveyances of convenience,
18 safety or transportation, including all appurtenances thereto,
19 located in whole or in part within the borders of the State of
20 Alabama, whether publicly or privately owned.

21 Section 2. The provisions of Section 34-11-9(a) (3),
22 Code of Alabama 1975, notwithstanding, neither a professional
23 firm nor any of its employees that provide construction
24 monitoring services on behalf of an awarding authority
25 relating to the construction, repair, resurfacing,
26 refurbishment, replacement, removal, modification, alteration,
27 or other improvement of any public or private infrastructure

1 shall be civilly liable in tort or otherwise for property
2 damage, personal injury, or death resulting from construction
3 monitoring services that substantially comply with the
4 professional firm's construction monitoring services
5 requirements for the awarding authority related to the plans
6 and specifications in determining compliance of the
7 contractor's work with the plans and specifications.

8 Section 3. (a) This act is not applicable to the
9 extent that a professional firm or its employees are engaged
10 by an awarding authority solely to design and/or prepare the
11 engineering plans and specifications for a public or private
12 infrastructure.

13 (b) This act is not applicable to the extent that a
14 professional firm or its employees performing construction
15 monitoring services are also engaged by an awarding authority
16 to prepare the engineering plans for that project, or are
17 otherwise providing additional services on that project, and
18 to the extent that a deficiency in such plans or additional
19 services proximately causes property damage, personal injury,
20 or death to a third party with whom the professional firm is
21 not in privity of contract.

22 (c) This act does not replace or supersede existing
23 burdens of proof or defenses in professional liability actions
24 concerning construction monitoring services.

25 Section 4. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-ferred to the House of Representa-tives committee on State Government 21-FEB-13

Read for the second time and placed on the calendar with 1 substitute and..... 10-APR-13

Read for the third time and passed as amended..... 02-MAY-13

Yeas 97, Nays 0, Abstains 0

Jeff Woodard
Clerk