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3 HOUSE COUNTY & MUNICIPAL GOVERNMENT COMMITTEE SUBSTITUTE FOR
4 HB409

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9 SYNOPSIS: This bill would prohibit a public works
10 contract or subcontract for roads and bridges from
11 containing a provision requiring a party to
12 indemnify another entity for damages caused by the
13 conduct of the other party.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating to public works contracts for roads and
20 bridges; to prohibit certain indemnification provisions in the
21 contracts requiring a party to indemnify another party for
22 damages caused by the conduct of the other party.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The Legislature finds that it is in the
25 best interests of this state and its residents to ensure that
26 any private business or individual entering into a road or
27 bridge contract is financially responsible under the tort

1 liability system for damages that the private party may cause
2 while performing under the contract. It is the intent of this
3 act to promote competition and safety relating to road or
4 bridge contracts by requiring a party to be responsible for
5 any and all damages, losses, or injuries, including, but not
6 limited to, attorney's fees and other litigation costs, caused
7 by the party.

8 Section 2. As used in this act, the following words
9 have the following meanings:

10 (1) PARTY. A private business or individual that is
11 party to a road and bridge contract. The term does not include
12 the Department of Transportation, a county commission, or any
13 other governmental awarding authority.

14 (2) ROAD OR BRIDGE CONTRACT. A contract or a
15 subcontract for the planning, construction, repair,
16 reconstruction, replacement, rehabilitation, or improvement of
17 any road or bridge and financed in whole or in part by state,
18 county, municipal, or federal funds.

19 Section 3. A road or bridge contract may not require
20 a party to the contract to indemnify, hold harmless, or defend
21 another party for liability, damages, losses, or costs caused
22 by the negligence, wantonness, recklessness, or intentional
23 misconduct of the party to be indemnified or its officers,
24 employees, or agents. Any contract entered into after the
25 effective date of this act containing such a requirement is
26 void.

1 Section 4. A road or bridge contract may contain a
2 provision requiring a party to the contract to indemnify, hold
3 harmless, or defend another party, but only to the extent that
4 liability, damages, losses, or costs are caused by the
5 negligence, wantonness, recklessness, or intentional conduct
6 of the indemnifying party or the indemnifying party's
7 officers, employees, or agents.

8 Section 5. A road or bridge contract may not require
9 a party to the contract to provide insurance coverage to
10 another party as an additional insured for claims that arise
11 out of or are caused by the second party's own negligent,
12 reckless, wanton, or intentional conduct or that of its
13 officers, employees, or agents. Any additional insured
14 coverage required under a road or bridge contract may not be
15 broader than the scope of indemnity provided for in Section 3
16 or Section 4.

17 Section 6. This act does not apply to indemnity of a
18 surety by a principal on a construction contract bond or to
19 indemnity of an insurer's obligations to its insureds.

20 Section 7. Any provision of law to the contrary
21 notwithstanding, this act shall not be interpreted or
22 construed to affect joint and several liability or workers'
23 compensation laws.

24 Section 8. This act does not affect contractual
25 obligations owed by any contracting party to the Department of
26 Transportation, a county commission, or any other awarding
27 entity.

1 Section 9. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.