

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**S. B. No. 340**

**Senator Seitz**

**A BILL**

To enact section 153.81 of the Revised Code to 1  
regulate the use of indemnity provisions in 2  
contracts related to public improvements. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 153.81 of the Revised Code be 4  
enacted to read as follows: 5

Sec. 153.81. (A) A public authority may, by contract, 6  
require a contractor, subcontractor, or design professional to 7  
indemnify and hold harmless the public authority in connection 8  
with a public improvement as provided in this section. 9

(B) (1) If a contractor, subcontractor, or professional 10  
design firm provides work, services, studies, planning, surveys, 11  
or preparatory work in connection with a public improvement, the 12  
public authority may require, via contract or subcontract, that 13  
the contractor, subcontractor, or professional design firm 14  
indemnify and hold harmless the public authority and its 15  
officers and employees from liabilities, damages, losses, and 16  
costs, including reasonable attorney fees and court costs. 17

(2) A subcontract or professional design services 18  
subcontract entered into in connection with a public improvement 19

may also require any subcontractor or professional design firm 20  
to indemnify and hold harmless the public authority and the 21  
contractor, subcontractor, or professional design firm who 22  
executed the subcontract and their respective owners, officers, 23  
and employees from liabilities, damages, losses, and costs, 24  
including reasonable attorney fees and court costs. 25

(C) The indemnity provided under division (B) of this 26  
section shall apply only to the extent caused by the negligence, 27  
recklessness, or intentional wrong misconduct of the 28  
indemnifying contractor, subcontractor, or professional design 29  
firm or other persons employed or used by such contractor, 30  
subcontractor, or professional design firm in fulfilling the 31  
contract or subcontract. 32

(D) This section does not prohibit a public authority from 33  
requiring in a contract insurance coverage to meet the 34  
indemnification described in this section, including the 35  
designation of either of the following provided in connection 36  
with a construction contract or subcontract or professional 37  
design services contract or subcontract: 38

(1) A person as an additional insured on a general 39  
liability insurance policy; 40

(2) A designated insured on an automobile insurance policy 41  
provided in connection with a construction contract or 42  
subcontract or professional design services contract or 43  
subcontract. 44

(E) If any provision of this section conflicts with any 45  
provisions of a contract between a public authority and the 46  
federal government, such provision of this section shall not 47  
apply to the extent to which it is in conflict with such a 48

contract. All other provisions of this section that are not in 49  
conflict shall apply. 50

(F) Any indemnity provided under this section shall not 51  
extend to claims that would otherwise be barred under section 52  
2305.131 of the Revised Code. 53

(G) As used in this section: 54

(1) "Automobile insurance" has the same meaning as in 55  
section 3937.30 of the Revised Code. 56

(2) "Professional design firm" has the same meaning as 57  
under section 153.65 of the Revised Code. 58

(3) "Professional design services" has the same meaning as 59  
under section 153.65 of the Revised Code. 60

(4) "Public authority" means the state, a state 61  
institution of higher education, as defined in section 3345.011 62  
of the Revised Code, a county, township, municipal corporation, 63  
school district, or other political subdivision, or any public 64  
agency, authority, board, commission, instrumentality, or 65  
special purpose district of the state or of a political 66  
subdivision. 67