

By Senators Miller, Sebesta and Crist

18-1078-04

See HB

1                                   A bill to be entitled  
2           An act relating to Hillsborough County;  
3           authorizing the waiver of payment and  
4           performance bonds for the construction of a  
5           public building, for the prosecution and  
6           completion of a public work, or for repairs  
7           upon a public building or public work when the  
8           cost of the project is \$500,000 or less and the  
9           contract for the construction, completion, or  
10          repair is awarded pursuant to an economic  
11          development program established to encourage  
12          local small businesses to participate in county  
13          procurement programs; providing for a committee  
14          to determine suitable projects; providing  
15          requirements for the economic development  
16          program for local small businesses; providing  
17          procedures for waiver of the payment and  
18          performance bond; requiring a report; providing  
19          for repeal of the act; providing an effective  
20          date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24           Section 1. Notwithstanding section 255.05, Florida  
25 Statutes, Hillsborough County may waive payment and  
26 performance bonds on construction contracts for the  
27 construction of a public building, for the prosecution and  
28 completion of a public work, or for repairs on a public  
29 building or public work which has a cost of \$500,000 or less  
30 and the project is awarded pursuant to a race and gender  
31 neutral economic development program for the encouragement of

1 local small businesses which has been adopted by the governing  
2 body of the county pursuant to a resolution or ordinance.

3 Section 2. The county's adopted criteria for  
4 participation in the economic development program for local  
5 small businesses requires that a participant:

6 (1) Be an independent business.

7 (2) Be principally domiciled in Hillsborough County  
8 unless a reciprocal program is established with another  
9 jurisdiction pursuant to an interlocal agreement.

10 (3) Have been in business for at least 1 year.

11 (4) Employ 25 or fewer full-time employees.

12 (5) Have gross annual sales averaging over the  
13 previous 3-year period of \$2 million or less, with regard to  
14 any construction element of the program.

15 (6) Participate in an educational curriculum which  
16 will assist the small business in becoming eligible for  
17 bonding.

18 Section 3. The county's adopted procedures for waiving  
19 payment and performance bonds on projects with values not less  
20 than \$200,000 and not exceeding \$500,000 shall provide that  
21 payment and performance bonds may only be waived on projects  
22 that have been set aside to be competitively bid on by  
23 participants in an economic development program for local  
24 small businesses. A committee of county staff from affected  
25 departments shall determine if specific construction projects  
26 are suitable to be set aside for bidding by registered local  
27 small businesses and waiver of the payment and performance  
28 bond. The committee's decision to waive the payment and  
29 performance bond shall be in writing and shall include a  
30 determination that there exists sufficient competition so that

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1 the county receives a fair price and that the project lacks  
2 any unusual risk to the county.

3       Section 4. For any contract for which a payment and  
4 performance bond has been waived pursuant to the authority in  
5 section 1 of this act, the county shall pay all persons  
6 defined in section 713.01, Florida Statutes, who furnish  
7 labor, services, or materials for the prosecution of the work  
8 provided for in the contract to the same extent and upon the  
9 same conditions that a surety on the payment bond under  
10 section 255.05, Florida Statutes, would have been obligated to  
11 pay such persons if the payment and performance bond has not  
12 been waived. The county shall record notice of this  
13 obligation in the manner and location that surety bonds are  
14 recorded. The notice shall include the information describing  
15 the contract which section 255.05(1), Florida Statutes,  
16 requires be stated on the front page of the bond. Section  
17 255.05(9), Florida Statutes, shall apply to any contract on  
18 which performance or payment bonds are waived pursuant to this  
19 act, and any claim to payment under this section shall be  
20 treated as a contract claim pursuant to section 255.05(9),  
21 Florida Statutes.

22       Section 5. A small business that has been the  
23 successful bidder on three projects where the payment and  
24 performance bond were waived pursuant to section 1 shall be  
25 ineligible to bid on additional projects where the payment and  
26 performance bond has been waived on projects with an estimated  
27 value of not less than \$200,000 and not exceeding  
28 \$500,000. The local small business may continue to  
29 participate in other elements of the economic development  
30 program for local small business so long as otherwise  
31 eligible.

1           Section 6. The county shall prepare a report on the  
2 activities every 2 years which shall be provided to the  
3 county's legislative delegation. The initial report shall be  
4 due December 31, 2006.

5           Section 7. This act shall stand repealed on September  
6 30, 2009.

7           Section 8. This act shall take effect on October 1,  
8 2004.

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