

HB 0785

2004

A bill to be entitled

An act relating to Hillsborough County; authorizing the waiver of payment and performance bonds for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work when the cost of the project is \$500,000 or less and the contract for the construction, completion, or repair is awarded pursuant to an economic development program established to encourage local small businesses to participate in county procurement programs; providing for a committee to determine suitable projects; providing requirements for the economic development program for local small businesses; providing procedures for waiver of the payment and performance bond; requiring a report; providing for repeal of the act; providing an effective date.

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

Section 1. Notwithstanding section 255.05, Florida Statutes, Hillsborough County may waive payment and performance bonds on construction contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs on a public building or public work which has a cost of \$500,000 or less and the project is awarded pursuant to a race and gender neutral economic development program for the encouragement of local small businesses which has been adopted by the governing body of the county pursuant to a resolution or ordinance.

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

33 (1) Be an independent business.

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

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

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

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

42 (6) Participate in an educational curriculum which will
 43 assist the small business in becoming eligible for bonding.

44 Section 3. The county's adopted procedures for waiving
 45 payment and performance bonds on projects with values not less
 46 than \$200,000 and not exceeding \$500,000 shall provide that
 47 payment and performance bonds may only be waived on projects
 48 that have been set aside to be competitively bid on by
 49 participants in an economic development program for local small
 50 businesses. A committee of county staff from affected
 51 departments shall determine if specific construction projects
 52 are suitable to be set aside for bidding by registered local
 53 small businesses and waiver of the payment and performance bond.
 54 The committee's decision to waive the payment and performance
 55 bond shall be in writing and shall include a determination that
 56 there exists sufficient competition so that the county receives
 57 a fair price and that the project lacks any unusual risk to the
 58 county.

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59 Section 4. For any contract for which a payment and
60 performance bond has been waived pursuant to the authority in
61 section 1 of this act, the county shall pay all persons defined
62 in section 713.01, Florida Statutes, who furnish labor,
63 services, or materials for the prosecution of the work provided
64 for in the contract to the same extent and upon the same
65 conditions that a surety on the payment bond under section
66 255.05, Florida Statutes, would have been obligated to pay such
67 persons if the payment and performance bond has not been waived.

68 The county shall record notice of this obligation in the manner
69 and location that surety bonds are recorded. The notice shall
70 include the information describing the contract which section
71 255.05(1), Florida Statutes, requires be stated on the front
72 page of the bond. Section 255.05(9), Florida Statutes, shall
73 apply to any contract on which performance or payment bonds are
74 waived pursuant to this act, and any claim to payment under this
75 section shall be treated as a contract claim pursuant to section
76 255.05(9), Florida Statutes.

77 Section 5. A small business that has been the successful
78 bidder on three projects where the payment and performance bond
79 were waived pursuant to section 1 shall be ineligible to bid on
80 additional projects where the payment and performance bond has
81 been waived on projects with an estimated value of not less than
82 \$200,000 and not exceeding \$500,000. The local small business
83 may continue to participate in other elements of the economic
84 development program for local small business so long as
85 otherwise eligible.

86 Section 6. The county shall prepare a report on the
87 activities every 2 years which shall be provided to the county's

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88 legislative delegation. The initial report shall be due December
89 31, 2006.

90 Section 7. This act shall stand repealed on September 30,
91 2009.

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