

By Senator Deutch

30-1225-07

1 A bill to be entitled
2 An act relating to payment and performance
3 bonds for public building construction;
4 amending s. 255.05, F.S.; increasing from
5 \$200,000 to \$500,000 the value of such a
6 contract for a county, municipality, political
7 subdivision, or public authority which may be
8 exempted from the requirement to execute a
9 payment and performance bond; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (1) of section 255.05, Florida
15 Statutes, is amended to read:

16 255.05 Bond of contractor constructing public
17 buildings; form; action by materialmen.--

18 (1)(a) Any person entering into a formal contract with
19 the state or any county, city, or political subdivision
20 thereof, or other public authority, for the construction of a
21 public building, for the prosecution and completion of a
22 public work, or for repairs upon a public building or public
23 work shall be required, before commencing the work or before
24 recommencing the work after a default or abandonment, to
25 execute, deliver to the public owner, and record in the public
26 records of the county where the improvement is located, a
27 payment and performance bond with a surety insurer authorized
28 to do business in this state as surety. A public entity may
29 not require a contractor to secure a surety bond under this
30 section from a specific agent or bonding company. The bond
31 must state on its front page: the name, principal business

1 address, and phone number of the contractor, the surety, the
2 owner of the property being improved, and, if different from
3 the owner, the contracting public entity; the contract number
4 assigned by the contracting public entity; and a description
5 of the project sufficient to identify it, such as a legal
6 description or the street address of the property being
7 improved, and a general description of the improvement. Such
8 bond shall be conditioned upon the contractor's performance of
9 the construction work in the time and manner prescribed in the
10 contract and promptly making payments to all persons defined
11 in s. 713.01 who furnish labor, services, or materials for the
12 prosecution of the work provided for in the contract. Any
13 claimant may apply to the governmental entity having charge of
14 the work for copies of the contract and bond and shall
15 thereupon be furnished with a certified copy of the contract
16 and bond. The claimant shall have a right of action against
17 the contractor and surety for the amount due him or her,
18 including unpaid finance charges due under the claimant's
19 contract. Such action shall not involve the public authority
20 in any expense. When such work is done for the state and the
21 contract is for \$100,000 or less, no payment and performance
22 bond shall be required. At the discretion of the official or
23 board awarding such contract when such work is done for any
24 county, city, political subdivision, or public authority, any
25 person entering into such a contract which is for \$500,000
26 ~~\$200,000~~ or less may be exempted from executing the payment
27 and performance bond. When such work is done for the state,
28 the Secretary of the Department of Management Services may
29 delegate to state agencies the authority to exempt any person
30 entering into such a contract amounting to more than \$100,000
31 but less than \$200,000 from executing the payment and

1 performance bond. In the event such exemption is granted, the
2 officer or officials shall not be personally liable to persons
3 suffering loss because of granting such exemption. The
4 Department of Management Services shall maintain information
5 on the number of requests by state agencies for delegation of
6 authority to waive the bond requirements by agency and project
7 number and whether any request for delegation was denied and
8 the justification for the denial. Any provision in a payment
9 bond furnished for public work contracts as provided by this
10 subsection which restricts the classes of persons as defined
11 in s. 713.01 protected by the bond or the venue of any
12 proceeding relating to such bond is unenforceable.

13 (b) The Department of Management Services shall adopt
14 rules with respect to all contracts for \$200,000 or less, to
15 provide:

16 1. Procedures for retaining up to 10 percent of each
17 request for payment submitted by a contractor and procedures
18 for determining disbursements from the amount retained on a
19 pro rata basis to laborers, materialmen, and subcontractors,
20 as defined in s. 713.01.

21 2. Procedures for requiring certification from
22 laborers, materialmen, and subcontractors, as defined in s.
23 713.01, prior to final payment to the contractor that such
24 laborers, materialmen, and subcontractors have no claims
25 against the contractor resulting from the completion of the
26 work provided for in the contract.

27
28 The state shall not be held liable to any laborer,
29 materialman, or subcontractor for any amounts greater than the
30 pro rata share as determined under this section.

31

