

Bill No. SB 2376

Barcode 624884

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Fasano) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(1)~~(a)~~ Any person entering into a formal contract with the state or any county, municipality ~~city~~, or political subdivision thereof, or other public authority, 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 shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a

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1 surety insurer authorized to do business in this state as
2 surety. A public entity may not require a contractor to secure
3 a surety bond under this section from a specific agent or
4 bonding company.

5 (a) The bond must state on its front page: the name,
6 principal business address, and phone number of the
7 contractor; ~~;~~ the surety; ~~;~~ the owner of the property being
8 improved, and, if different from the owner, the contracting
9 public entity; the contract number assigned by the contracting
10 public entity; and a description of the project sufficient to
11 identify it, such as a legal description or the street address
12 of the property being improved, and a general description of
13 the improvement.

14 (b) The ~~Such~~ bond shall be conditioned upon the
15 contractor's performance of the construction work in the time
16 and manner prescribed in the contract and promptly making
17 payments to all persons defined in s. 713.01 who furnish
18 labor, services, or materials for the prosecution of the work
19 provided for in the contract.

20 (c) The amount of the bond must equal the amount of
21 the contract unless the state, county, municipality, political
22 subdivision, or other public authority determines that for a
23 construction-management or design-build contract the amount of
24 the bond need not include the cost of design or other
25 nonconstruction services. If the amount of the bond does not
26 include the cost of design or other nonconstruction services,
27 the bond does not cover the performance of such services or
28 payment to persons who furnish such services even if such
29 persons are defined in s. 713.01.

30 (d) Any claimant may apply to the governmental entity
31 having charge of the work for copies of the contract and bond

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1 and shall thereupon be furnished with a certified copy of the
2 contract and bond.

3 (e) The claimant shall have a right of action against
4 the contractor and surety for the amount due him or her,
5 including unpaid finance charges due under the claimant's
6 contract. Such action shall not involve the public authority
7 in any expense.

8 (f) When ~~such~~ work is done for the state and the
9 contract is for \$100,000 or less, a ~~no~~ payment and performance
10 bond is not ~~shall be~~ required. At the discretion of the
11 official or board awarding such contract when such work is
12 done for any county, city, political subdivision, or public
13 authority, any person entering into ~~such~~ a contract that ~~which~~
14 is for \$200,000 or less may be exempted from executing the
15 payment and performance bond. When such work is done for the
16 state, the Secretary of the Department of Management Services
17 may delegate to state agencies the authority to exempt any
18 person entering into such a contract amounting to more than
19 \$100,000 but less than \$200,000 from executing the payment and
20 performance bond. If an ~~In the event such~~ exemption is
21 granted, the officer or officials are ~~shall not be~~ personally
22 liable to persons suffering loss because of granting such
23 exemption. The Department of Management Services shall
24 maintain information on the number of requests by state
25 agencies for delegation of authority to waive the bond
26 requirements by agency and project number and whether any
27 request for delegation was denied and the justification for
28 the denial.

29 (g) Any provision in a payment bond furnished for
30 public work contracts as provided by this subsection which
31 restricts the classes of persons as defined in s. 713.01

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1 | protected by the bond or the venue of any proceeding relating
2 | to such bond is unenforceable.

3 | ~~(h)(b)~~ The Department of Management Services shall
4 | adopt rules with respect to all contracts for \$200,000 or
5 | less, to provide:

6 | 1. Procedures for retaining up to 10 percent of each
7 | request for payment submitted by a contractor and procedures
8 | for determining disbursements from the amount retained on a
9 | pro rata basis to laborers, materialmen, and subcontractors,
10 | as defined in s. 713.01.

11 | 2. Procedures for requiring certification from
12 | laborers, materialmen, and subcontractors, as defined in s.
13 | 713.01, prior to final payment to the contractor that such
14 | laborers, materialmen, and subcontractors have no claims
15 | against the contractor resulting from the completion of the
16 | work provided for in the contract.

17 |
18 | The state shall not be held liable to any laborer,
19 | materialman, or subcontractor for any amounts greater than the
20 | pro rata share as determined under this section.

21 | Section 2. This act shall take effect July 1, 2007.

22 |
23 |
24 | ===== T I T L E A M E N D M E N T =====

25 | And the title is amended as follows:

26 | Delete everything before the enacting clause

27 |
28 | and insert:

29 | A bill to be entitled

30 | An act relating to contractor bonds; amending

31 | s. 255.05, F.S.; providing that the amount of a

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1 payment and performance bond for the
2 construction or a public work must equal the
3 amount of the contract for the work; providing
4 an exception; providing an effective date.
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