

By the Committee on Regulated Industries; and Senator Saunders

580-2458-07

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A bill to be entitled

An act relating to public project construction bonds; amending s. 255.05, F.S.; providing that the amount of a bond shall equal the contract price except under certain conditions; providing that a bond may not be conditioned on the performance of design or nonconstruction services if such services are not included in the bond amount; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (1) of section 255.05, Florida Statutes, to read:

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

(1)

(c)1. The amount of the bond shall equal the contract price, except that for a contract in excess of \$250 million, if the state, county, municipality, political subdivision, or other public entity finds that a bond in the amount of the contract price is not reasonably available, the public owner shall set the amount of the bond at the largest amount reasonably available, but not less than \$250 million.

2. For a construction-management or design-build contracts, if the public owner does not include in the bond amount the cost of design or other nonconstruction services, the bond may not be conditioned on performance of such services or payment to persons furnishing such services. Notwithstanding paragraph (a), such a bond may exclude persons

1 furnishing such services from the classes of persons protected
2 by the bond.

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

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 2376

8 The committee substitute (CS) restores the requirement that
9 the payment and performance bond must be with a surety insurer
authorized to do business in this state as a surety.

10 The CS does not specify requirements for a performance bond.

11 The CS does not provide requirements related to contracts for
12 construction-manager-at-risk construction services and
design-building construction services, including the amount of
the bond and the services that it may not include.

13 The CS does not provide that the amount of the payment and
14 performance bonds may be reduced by the amount of such bonds
that are provided by the subcontractors. It also does not
15 require that the performance and payment bond name both the
contractor and the public entity as obligees.

16 The CS permits a public owner to set the amount of the payment
17 and performance bond at the largest amount reasonably
available if the contract exceeds \$250 million and a bond in
18 the amount of the contract price is not reasonably available.

19 The CS provides that a bond for a construction-management or
20 design-build contract, if the public owner does not include
the cost of the amount may not be conditioned on performance
of such services or payment to persons furnishing such
21 services and must exclude persons furnishing such services
from the classes of persons protected by the bond.

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