



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government.**— Under the bill, the threshold amount that is required to trigger the competitive bidding requirements for a day-labor contract is increased from \$200,000 to \$300,000. Accordingly, fewer day-labor projects will have to be competitively bid.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Section 1013.45(1)(e), F.S., authorizes boards<sup>1</sup> to use day-labor contracts for new construction and renovation, remodeling, or maintenance of existing facilities. A “day-labor contract” is a project constructed using persons employed directly by a board or by contracted labor.<sup>2</sup> A day-labor contract entered into for facilities purposes may not exceed \$200,000.<sup>3</sup> This threshold has been in statute since 1995.<sup>4</sup> A project that exceeds this amount must be competitively bid in its entirety pursuant to s. 255.20, F.S.

Section 255.20, F.S., requires counties, municipalities, special districts, and other political subdivisions, including public educational institutions, to solicit competitive bids for any new construction or improvement project that is projected to exceed \$200,000 and for electrical projects projected to exceed \$50,000. In addition, the section provides that:

- Such a project must be bid in its entirety. It may not be divided into multiple smaller projects to avoid competitive bidding requirements.
- Repair or maintenance projects on an existing public facility are excluded from this requirement.

The \$200,000/\$50,000 threshold must be adjusted by the percentage change in the Consumer Price Index (CPI) from January 1, 1994, to January 1 of the year in which the project is scheduled to begin.<sup>5</sup> According to the Office of Economic and Demographic Research, the 2008 adjusted threshold for a new construction or improvement project is approximately \$288,000.<sup>6</sup>

A public entity may elect to perform a project using its own services, employees, and equipment if its governing board, by a majority vote at a properly noticed public meeting, decides that it is in the public's best interest to do so. Such projects need not be competitively bid.<sup>7</sup>

##### Effect of Proposed Changes

House Bill 871 amends s. 1013.45, F.S., to increase the statutory maximum threshold for day-labor contracts from \$200,000 to \$300,000. The bill also requires that the threshold be annually adjusted based upon changes in the ENR construction and building cost indexes.

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<sup>1</sup> Statute defines “board” to mean a district school board, community college board of trustees, university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind. It does not include the State Board of Education or Board of Governors. See Section 1013.01(3), F.S.

<sup>2</sup> Section 1013.45(2), F.S.

<sup>3</sup> Section 1013.45(1)(e), F.S.

<sup>4</sup> Department of Education, 2008 Bill Analysis for House Bill 871.

<sup>5</sup> Section 255.20(2), F.S.

<sup>6</sup> Correspondence with Office of Economic and Demographic Research staff on April 3, 2008.

<sup>7</sup> Section 255.20(1)(c), F.S.

In changing the threshold, a day-labor project may cost up to \$300,000 before it must be competitively bid. Projects conducted by non-educational public entities are not affected by bill and remain subject to the competitive bidding requirements under s. 255.20, F.S.

C. SECTION DIRECTORY:

**Section 1.:** Amending s. 1013.45, F.S.; increasing the statutory threshold for day-labor contracts; requiring that the threshold be annually adjusted according to a specified cost index.

**Section 2.:** Providing an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases the threshold amount that is required to trigger the competitive bidding requirements for a day-labor contract. As such, private companies may have fewer opportunities to competitively bid for such contracts.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds; reduce the authority that counties or municipalities had as of February 1, 1989, to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities as of February 1, 1989.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

At lines 19-21, the bill requires the maximum threshold for day-labor contracts to be annually adjusted based upon changes published in the ENR's construction and building cost indexes. The ENR, a subsidiary of McGraw Hill Publishing, produces a variety of resources for building and construction professionals, including market reports and building, construction, labor, and materials cost indexes.<sup>8</sup>

The Department of Education recommends using a universally accepted construction cost index such as the RS Means or data from the Office of Economic and Demographic Research, rather than the ENR.<sup>9</sup> Also, the competitive bidding provisions in s. 255.20, F.S., set forth a similar adjustment procedure using the CPI. Thus, it appears that the resources used to make such adjustments vary.

D. STATEMENT OF THE SPONSOR

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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<sup>8</sup> McGraw Hill Construction, Engineering News-Record *available* at <http://enr.construction.com/>.

<sup>9</sup> Department of Education, 2008 Bill Analysis for House Bill 871 and correspondence with DOE Office of Educational Facilities staff on March 12, 2008.