



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1404

by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

30 ILCS 550/1

from Ch. 29, par. 15

Amends the Public Construction Bond Act. Requires surety bonds on public construction projects by any political subdivision of the State costing over \$50,000 (now, over \$5,000). Makes surety bond requirements for any political subdivision of the State the same as those for the State. Effective immediately.

LRB098 04290 OMW 34317 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Construction Bond Act is amended by
5 changing Section 1 as follows:

6 (30 ILCS 550/1) (from Ch. 29, par. 15)

7 Sec. 1. Except as otherwise provided by this Act, all
8 officials, boards, commissions, or agents of this State, or of
9 any political subdivision thereof, in making contracts for
10 public work of any kind costing over \$50,000 to be performed
11 for the State, or of any political subdivision thereof, ~~and all~~
12 ~~officials, boards, commissions, or agents of any political~~
13 ~~subdivision of this State in making contracts for public work~~
14 ~~of any kind costing over \$5,000 to be performed for the~~
15 ~~political subdivision,~~ shall require every contractor for the
16 work to furnish, supply and deliver a bond to the State, or to
17 the political subdivision thereof entering into the contract,
18 as the case may be, with good and sufficient sureties. The
19 amount of the bond shall be fixed by the officials, boards,
20 commissions, commissioners or agents, and the bond, among other
21 conditions, shall be conditioned for the completion of the
22 contract, for the payment of material used in the work and for
23 all labor performed in the work, whether by subcontractor or

1 otherwise.

2 If the contract is for emergency repairs as provided in the
3 Illinois Procurement Code, proof of payment for all labor,
4 materials, apparatus, fixtures, and machinery may be furnished
5 in lieu of the bond required by this Section.

6 Each such bond is deemed to contain the following
7 provisions whether such provisions are inserted in such bond or
8 not:

9 "The principal and sureties on this bond agree that all the
10 undertakings, covenants, terms, conditions and agreements of
11 the contract or contracts entered into between the principal
12 and the State or any political subdivision thereof will be
13 performed and fulfilled and to pay all persons, firms and
14 corporations having contracts with the principal or with
15 subcontractors, all just claims due them under the provisions
16 of such contracts for labor performed or materials furnished in
17 the performance of the contract on account of which this bond
18 is given, when such claims are not satisfied out of the
19 contract price of the contract on account of which this bond is
20 given, after final settlement between the officer, board,
21 commission or agent of the State or of any political
22 subdivision thereof and the principal has been made."

23 Each bond securing contracts between the Capital
24 Development Board or any board of a public institution of
25 higher education and a contractor shall contain the following
26 provisions, whether the provisions are inserted in the bond or

1 not:

2 "Upon the default of the principal with respect to
3 undertakings, covenants, terms, conditions, and agreements,
4 the termination of the contractor's right to proceed with the
5 work, and written notice of that default and termination by the
6 State or any political subdivision to the surety ("Notice"),
7 the surety shall promptly remedy the default by taking one of
8 the following actions:

9 (1) The surety shall complete the work pursuant to a
10 written takeover agreement, using a completing contractor
11 jointly selected by the surety and the State or any
12 political subdivision; or

13 (2) The surety shall pay a sum of money to the obligee,
14 up to the penal sum of the bond, that represents the
15 reasonable cost to complete the work that exceeds the
16 unpaid balance of the contract sum.

17 The surety shall respond to the Notice within 15 working
18 days of receipt indicating the course of action that it intends
19 to take or advising that it requires more time to investigate
20 the default and select a course of action. If the surety
21 requires more than 15 working days to investigate the default
22 and select a course of action or if the surety elects to
23 complete the work with a completing contractor that is not
24 prepared to commence performance within 15 working days after
25 receipt of Notice, and if the State or any political
26 subdivision determines it is in the best interest of the State

1 to maintain the progress of the work, the State or any
2 political subdivision may continue to work until the completing
3 contractor is prepared to commence performance. Unless
4 otherwise agreed to by the procuring agency, in no case may the
5 surety take longer than 30 working days to advise the State or
6 political subdivision on the course of action it intends to
7 take. The surety shall be liable for reasonable costs incurred
8 by the State or any political subdivision to maintain the
9 progress to the extent the costs exceed the unpaid balance of
10 the contract sum, subject to the penal sum of the bond.".

11 The surety bond required by this Section may be acquired
12 from the company, agent or broker of the contractor's choice.
13 The bond and sureties shall be subject to the right of
14 reasonable approval or disapproval, including suspension, by
15 the State or political subdivision thereof concerned. In the
16 case of State construction contracts, a contractor shall not be
17 required to post a cash bond or letter of credit in addition to
18 or as a substitute for the surety bond required by this
19 Section.

20 When other than motor fuel tax funds, federal-aid funds, or
21 other funds received from the State are used, a political
22 subdivision may allow the contractor to provide a
23 non-diminishing irrevocable bank letter of credit, in lieu of
24 the bond required by this Section, on contracts under \$100,000
25 to comply with the requirements of this Section. Any such bank
26 letter of credit shall contain all provisions required for

1 bonds by this Section.

2 (Source: P.A. 95-1011, eff. 12-15-08; 96-1000, eff. 7-2-10.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.