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**State Government Operations &  
Accountability Committee**

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**HB 1438**

**Brief Description:** Authorizing state agencies to waive bond and retainage requirements on small works roster contracts.

**Sponsors:** Representatives Haigh, Nixon, Green, Ormsby and Chase; by request of Department of General Administration.

**Brief Summary of Bill**

- Allows state agencies to waive bond and retainage requirements on small works roster contracts.

**Hearing Date:** 2/2/05

**Staff:** Jim Morishima (786-7191).

**Background:**

State agencies and local governments may use the small works roster process to award contracts for public works projects estimated to cost \$200,000 or less. When an agency or local government elects to use this process, it must solicit bids from at least five contractors who have requested to be listed on a small works roster. The agency or local government, if it decides to award the contract, awards the contract to the lowest responsible bidder. The agency or local government must make an effort to equitably distribute the opportunity among contractors on the roster if the bids are solicited from less than all the contractors on the roster.

In most instances, the general contractor on a public works project is required to post a performance bond to faithfully perform all work under the contract and to pay laborers, materialmen, and subcontractors. Also, in most instances, a retainage of up to 5 percent of the contract amount is required on public works contracts to be paid to the contractors 45 days after the completion of the project. The amount serves as a trust fund for payment of laborers, subcontractors, materialmen, and excise taxes that are imposed on the contract.

**Summary of Bill:**

A state agency may waive bond and retainage requirements on small works roster projects thereby assuming the liability for the contractors nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and excise taxes that may be due from the contractor for the project. If

the agency elects to waive the bond and retainage requirements, it has the right of recovery against the contractor for any payments made on the contractor's behalf.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.