
Capital Budget Committee

HB 2852

Brief Description: Concerning attorneys' fees on public works contracts.

Sponsors: Representatives Graves and Haler.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Provides for attorneys' fees from a public works contract dispute involving a performance or payment bond.
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Hearing Date: 1/30/18

Staff: Steve Masse (786-7115).

Background:

Public Works Contract Bond

"Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property in the jurisdiction. A bond is required for public works contracts over one hundred thousand dollars. For public works contracts under one hundred thousand dollars the public body may accept ten percent retainage in lieu of the bond.

Performance bond is a guarantee that a contract for public works will be carried out according to the drawings and specification. A performance bond is typically for the full value of the contract, and provided by a surety. It also protects the state or municipality from a contractor default, bankruptcy, or failure to perform. Payment from the performance bond is available only to the project owner and there cannot be other claims against it.

Payment bond is a guarantee that the contractor pays the subcontractors and the material supplier will be paid for work or materials provided for a public works project.

Attorney Fees

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In a dispute arising out of a public works contract, if the prevailing party recovers more than the amount offered in a settlement, then the attorneys' fees are awarded. The law provides an incentive to agree to a settlement.

Summary of Bill:

For disputes arising out of a public works contract, action under a performance bond or payment bond are included when determining the awarding of attorney's fees when agreeing on a settlement.

Appropriation: None.

Fiscal Note: Not requested.

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