



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1890

Introduced 1/10/2008, by Sen. William R. Haine

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 costing over \$100,000 (now, over \$5,000). With respect to bonds securing contracts between the Capital Development Board or a public institution of higher education and a contractor, requires that within 15 days after notice to the surety that the principal is in default, the surety must (i) complete the work using a contractor selected jointly with the obligee or (ii) provide the obligee the amount needed to complete the work, in excess of the unpaid contract balance and up to the penal sum of the bond. Effective immediately.

LRB095 14226 JAM 40095 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 \$100,000 ~~\$5,000~~ to be
11 performed for the State, or a political subdivision thereof
12 shall require every contractor for the work to furnish, supply
13 and deliver a bond to the State, or to the political
14 subdivision thereof entering into the contract, as the case may
15 be, with good and sufficient sureties. The amount of the bond
16 shall be fixed by the officials, boards, commissions,
17 commissioners or agents, and the bond, among other conditions,
18 shall be conditioned for the completion of the contract, for
19 the payment of material used in the work and for all labor
20 performed in the work, whether by subcontractor or otherwise.

21 If the contract is for emergency repairs as provided in the
22 Illinois Procurement Code, proof of payment for all labor,
23 materials, apparatus, fixtures, and machinery may be furnished

1 in lieu of the bond required by this Section.

2 Each such bond is deemed to contain the following
3 provisions whether such provisions are inserted in such bond or
4 not:

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

19 Each bond securing contracts between the Capital
20 Development Board or any board of a public institution of
21 higher education and a contractor shall contain the following
22 provisions, whether the provisions are inserted in the bond or
23 not:

24 "Upon the default of the principal with respect to
25 undertakings, covenants, terms, conditions, and agreements,
26 the termination of the contractor's right to proceed with the

1 work, and written notice of that default and termination by the
2 State or any political subdivision to the surety ("Notice"),
3 the surety shall promptly remedy the default by taking one of
4 the following actions:

5 (1) The surety shall complete the work pursuant to a
6 written takeover agreement, using a completing contractor
7 jointly selected by the surety and the State or any
8 political subdivision; or

9 (2) The surety shall pay a sum of money to the obligee,
10 up to the penal sum of the bond, that represents the
11 reasonable cost to complete the work that exceeds the
12 unpaid balance of the contract sum.

13 The surety shall respond to the Notice within 15 working
14 days of receipt indicating the course of action that it intends
15 to take. If the surety elects to complete the work with a
16 completing contractor and if the State or any political
17 subdivision determines it is in the best interest of the State
18 to maintain the progress of the work, the State or any
19 political subdivision may continue to work until the completing
20 contractor is prepared to commence performance. The surety
21 shall be liable for reasonable costs incurred by the State or
22 any political subdivision to maintain the progress to the
23 extent the costs exceed the unpaid balance of the contract sum,
24 subject to the penal sum of the bond."

25 The surety bond required by this Section may be acquired
26 from the company, agent or broker of the contractor's choice.

1 The bond and sureties shall be subject to the right of
2 reasonable approval or disapproval, including suspension, by
3 the State or political subdivision thereof concerned. In the
4 case of State construction contracts, a contractor shall not be
5 required to post a cash bond or letter of credit in addition to
6 or as a substitute for the surety bond required by this
7 Section.

8 When other than motor fuel tax funds, federal-aid funds, or
9 other funds received from the State are used, a political
10 subdivision may allow the contractor to provide a
11 non-diminishing irrevocable bank letter of credit, in lieu of
12 the bond required by this Section, on contracts under \$100,000
13 to comply with the requirements of this Section. Any such bank
14 letter of credit shall contain all provisions required for
15 bonds by this Section.

16 (Source: P.A. 93-221, eff. 1-1-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.