

SENATE BILL REPORT

SB 5249

As of January 21, 2005

Title: An act relating to authorizing state agencies to waive bond and retainage requirements on small works roster contracts.

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

Sponsors: Senators Pridemore, Kastama, Berkey and Schmidt; by request of Department of General Administration.

Brief History:

Committee Activity: Government Operations & Elections: 1/25/05.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Genevieve Pisarski (786-7488)

Background: When the contract amount for a public works project is \$200,000 or less, state law allows state agencies and authorized local governments to use an alternative to competitive bidding called a "small works roster" and establishes specific procedures for use of this alternative. "Limited public works," public works projects whose contract amount is \$35,000 or less and whose procedures are also established in law, are another alternative to competitive bidding. The procedures for limited public works allow state agencies and authorized local governments to waive bond and retainage requirements.

Summary of Bill: Authority for state agencies to waive bond and retainage requirements is added to the procedures for small works roster contracts.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Proposals that could improve the efficiency of public contracting need to be considered. Waiving bonds and retainage has worked well for limited public works; state agencies have never ended up with liability. It should work just as well for small public works, whose contractors are pre-screened. The waiver will be an option, not a requirement. It will make state contracts more accessible to small businesses.

Testimony Against: Lack of problems with the smaller limited public works contracts is not a reliable indicator that there will be no problems with the significantly larger small public works contracts. Requiring contractors to obtain a bond is an effective method of screening by

an independent third party, the surety industry, that protects the public. An unintended result of waiver would be that agencies would accept bad work, because they could not afford to do otherwise. They would also have to devote resources to screening the contractors; the relatively small cost of a performance bond is worth the price. The contractors who need the advantage that waiver provides are the ones who can't get a performance bond. A surge of activity in public works could reveal problems with waiver that just haven't surfaced, yet.

Who Testified: PRO: Sen. Pridemore, Prime Sponsor; John Lynch, Department of General Administration.

CON: Jeff Thomas and Larry Byers, Contractors Bonding and Insurance Company (CBIC).