

HB611

2023

1 A bill to be entitled
 2 An act relating to bonds of contractors constructing
 3 public buildings; amending s. 255.05, F.S.; exempting
 4 certain contractors from executing payment and
 5 performance bonds when certain criteria are met;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (d) of subsection (1) of section
 11 255.05, Florida Statutes, is amended to read:

12 255.05 Bond of contractor constructing public buildings;
 13 form; action by claimants.—

14 (1) A person entering into a formal contract with the
 15 state or any county, city, or political subdivision thereof, or
 16 other public authority or private entity, for the construction
 17 of a public building, for the prosecution and completion of a
 18 public work, or for repairs upon a public building or public
 19 work shall be required, before commencing the work or before
 20 recommencing the work after a default or abandonment, to execute
 21 and record in the public records of the county where the
 22 improvement is located, a payment and performance bond with a
 23 surety insurer authorized to do business in this state as
 24 surety. A public entity may not require a contractor to secure a
 25 surety bond under this section from a specific agent or bonding

26 company.

27 (d)1. When the work is done for the state and the contract
 28 is for \$100,000 or less, no payment and performance bond shall
 29 be required.

30 2. When the work is done for the state, the Secretary of
 31 Management Services may delegate to state agencies the authority
 32 to exempt any person entering into such a contract amounting to
 33 more than \$100,000 but less than \$200,000 from executing the
 34 payment and performance bond. If an exemption is granted, the
 35 officer or official is not personally liable to persons
 36 suffering loss because of granting such exemption. The
 37 Department of Management Services shall maintain information on
 38 the number of requests by state agencies for delegation of
 39 authority to waive the bond requirements by agency and project
 40 number and whether any request for delegation was denied and the
 41 justification for the denial.

42 3.a. When the work is done for any county, city, or
 43 political subdivision thereof, or other public authority or
 44 private entity, and the contract is for \$200,000 or less, at the
 45 discretion of the official or board awarding such contract ~~when~~
 46 ~~such work is done for any county, city, political subdivision,~~
 47 ~~or public authority,~~ a person entering into such a contract ~~that~~
 48 ~~is for \$200,000 or less~~ may be exempted from executing the
 49 payment and performance bond.

50 b. Notwithstanding sub-subparagraph a., a person entering

51 into a contract of any amount may be exempted from executing the
52 payment and performance bond at the discretion of the official
53 or board awarding such contract if the following criteria are
54 met:

55 (I) The person provides documentation from the Department
56 of Business and Professional Regulation that he or she has
57 maintained a minimum of 10 consecutive years of active business
58 operations within this state.

59 (II) The person has a minimum of 10 years of business
60 experience in his or her industry.

61 (III) The person employs a sufficient number of staff who
62 have the skill and knowledge to perform the work.

63 (IV) The person is licensed and properly insured.

64 (V) The person is an owner of a small, local business
65 entity as certified by any county, city, or political
66 subdivision thereof, or other public authority or private
67 entity.

68 ~~c. When such work is done for the state, the Secretary of~~
69 ~~Management Services may delegate to state agencies the authority~~
70 ~~to exempt any person entering into such a contract amounting to~~
71 ~~more than \$100,000 but less than \$200,000 from executing the~~
72 ~~payment and performance bond. If an exemption is granted under~~
73 ~~this subparagraph, the officer or official is not personally~~
74 ~~liable to persons suffering loss because of granting such~~
75 ~~exemption. The Department of Management Services shall maintain~~

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76 | ~~information on the number of requests by state agencies for~~
77 | ~~delegation of authority to waive the bond requirements by agency~~
78 | ~~and project number and whether any request for delegation was~~
79 | ~~denied and the justification for the denial.~~

80 | Section 2. This act shall take effect July 1, 2023.