

HOUSE BILL NO. 559

INTRODUCED BY LAKE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ~~A~~ AN IRREVOCABLE LETTER OF CREDIT AS SECURITY FOR A PUBLIC CONSTRUCTION CONTRACT; AND AMENDING SECTION 18-2-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-201, MCA, is amended to read:

"18-2-201. Security requirements. (1) (a) Except as otherwise provided in 85-1-219 and subsections (3) through (5) of this section, whenever any board, council, commission, trustees, or body acting for the state or any county, municipality, or public body contracts with a person or corporation to do work for the state, county, or municipality or other public body, city, town, or district, the board, council, commission, trustees, or body shall require the person or corporation with whom the contract is made to make, execute, and deliver to the board, council, commission, trustees, or body a good and sufficient bond with a surety company, licensed in this state, as surety, conditioned that the person or corporation shall:

- (i) faithfully perform all of the provisions of the contract;
- (ii) pay all laborers, mechanics, subcontractors, and material suppliers; and
- (iii) pay all persons who supply the person, corporation, or subcontractors with provisions, provender, material, or supplies for performing the work.

(b) The state or other governmental entity listed in subsection (1)(a) may not require that any bond required by subsection (1)(a) be furnished by a particular surety company or by a particular insurance producer for a surety company.

(2) The state or other governmental entity listed in subsection (1)(a) may, in lieu of a surety bond, permit the deposit with the contracting governmental entity or agency of the following securities in an amount at least equal to the contract sum to guarantee the faithful performance of the contract and the payment of all laborers, suppliers, material suppliers, mechanics, and subcontractors:

- (a) lawful money of the United States; or
- (b) a cashier's check, certified check, bank money order, certificate of deposit, money market certificate, ~~or~~ bank draft, or IRREVOCABLE letter of credit, drawn or issued by:



- 1 (i) any federally or state-chartered bank or savings and loan association that is insured by or for which
2 insurance is administered by the federal deposit insurance corporation; or
3 (ii) a credit union insured by the national credit union share insurance fund.
- 4 (3) Any board, council, commission, trustee, or body acting for any county, municipality, or public body
5 other than the state may, subject to the provisions of subsection (1)(b), in lieu of a bond from a licensed surety
6 company, accept good and sufficient bond with two or more sureties acceptable to the governmental entity.
- 7 (4) Except as provided in subsection (5), the state or other governmental entity may waive the
8 requirements contained in subsections (1) through (3) for building or construction projects, as defined in
9 18-2-101, that cost less than \$50,000.
- 10 (5) A school district may waive the requirements contained in subsections (1) through (3) for building
11 or construction projects, as defined in 18-2-101, that cost less than \$7,500."

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