

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1745

Introduced by Committee on Transportation (Dutra (Chair), Berg, Chan, Chu, Kehoe, Liu, Longville, Nakano, Oropeza, Parra, and Salinas)

March 11, 2003

~~An act to amend Sections 10221, 10222, and 10224 of, and to add Section 10224.5 to, An act to amend Section 10222 of the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1745, as amended, Committee on Transportation. Public contracts: bonds.

The State Contract Act requires that every contract provide for the filing of separate performance and payment bonds, as provided, *and* that the performance and payment bonds each equal at least $\frac{1}{2}$ of the contract price, subject to certain exceptions, ~~and that the performance bond guarantee faithful performance of the contract by the contractor.~~

~~This bill would give the department the option of requiring the contractor to submit a separate warranty bond to the department upon completion of the work, or, with the contractor's consent, to instead retain the contractor's performance and payment bonds until the end of the warranty period.~~

This bill would give the Department of Transportation discretion to specify that, for projects with a contract price greater than \$250,000,000, the payment bond shall be the lesser of 1/2 the contract price or \$500,000,000.

~~This bill would also require the department to release the performance bond if the contractor submits a warranty bond, which would serve to guarantee the faithful performance of the warranty work by the contractor. The warranty bond would be required to equal at least 10% of the contract price.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~10221~~ 10222 of the Public Contract
2 Code is ~~amended to read:~~ *amended to read:*

3 10222. (a) Each bond shall ~~be in a sum equal to~~ at least
4 one-half of the contract price, except as otherwise provided in
5 Section 3248 of the Civil Code ~~or~~, in the California Toll Bridge
6 Authority Act (*Chapter 1 (commencing with Section 30000) of*
7 *Division 7 of the Streets and Highways Code*), or in subdivision
8 (b).

9 (b) *Notwithstanding subdivision (a), for projects with a contract*
10 *price greater than two hundred fifty million dollars*
11 *(\$250,000,000), the Department of Transportation shall have the*
12 *discretion to specify that the payment bond shall equal not less*
13 *than one-half of the contract price or five hundred million dollars*
14 *(\$500,000,000), whichever is less.*

15 SEC. 2. *This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or safety*
17 *within the meaning of Article IV of the Constitution and shall go*
18 *into immediate effect. The facts constituting the necessity are:*

19 *In order to ensure that the Department of Transportation will be*
20 *allowed to secure competitive bids for the department's urgently*
21 *needed major construction projects in the state, including bridge*
22 *seismic retrofit projects, it is necessary that this act take effect*
23 *immediately.*



1 ~~10221. Every contract shall provide for the filing of separate~~
2 ~~performance and payment bonds by the contractor in the form of~~
3 ~~bonds executed by an admitted surety insurer and not deposits in~~
4 ~~lieu of bond, subject to the approval of the department. The~~
5 ~~department shall either require the contractor to submit a separate~~
6 ~~warranty bond to the department, upon completion of the work~~
7 ~~required under the contract, or, with the approval of the contractor,~~
8 ~~the department may instead retain the contractor's performance~~
9 ~~and payment bonds until the end of the warranty period of the~~
10 ~~contract.~~

11 ~~SEC. 2. Section 10222 of the Public Contract Code is~~
12 ~~amended to read:~~

13 ~~10222. (a) Each bond shall equal at least one-half of the~~
14 ~~contract price, except as otherwise provided in Section 3248 of the~~
15 ~~Civil Code, in the California Toll Bridge Authority Act (Chapter~~
16 ~~4 (commencing with Section 30000) of Division 7 of the Streets~~
17 ~~and Highways Code), or in subdivision (b).~~

18 ~~(b) For projects with a contract price greater than two hundred~~
19 ~~fifty million dollars (\$250,000,000), the Department of~~
20 ~~Transportation shall have discretion to specify that the payment~~
21 ~~bond shall equal not less than one-half of the contract price or five~~
22 ~~hundred million dollars (\$500,000,000), whichever is less.~~

23 ~~SEC. 3. Section 10224 of the Public Contract Code is~~
24 ~~amended to read:~~

25 ~~10224. The performance bond shall guarantee the faithful~~
26 ~~performance of the contract by the contractor. Under contracts for~~
27 ~~which a warranty bond is submitted, the department shall release~~
28 ~~the performance bond upon receipt of the warranty bond and~~
29 ~~completion of the construction work.~~

30 ~~SEC. 4. Section 10224.5 is added to the Public Contract Code,~~
31 ~~to read:~~

32 ~~10224.5. The warranty bond shall guarantee the faithful~~
33 ~~performance of the warranty work by the contractor.~~

