



S.B. 234

127th General Assembly
(As Introduced)

Sens. Spada, Mason

BILL SUMMARY

- Authorizes the state or any political subdivision, district, institution, or other agency to waive bid guaranty and indemnification requirements for public improvement projects valued at less than \$500,000.

CONTENT AND OPERATION

Bid guarantees-current law

Under current law, each person bidding on a public improvement contract with the state or any political subdivision, district, institution, or other agency (hereinafter, the contracting authority) other than the department of transportation, must file with the bid, a bid guaranty in the form of a bond for the full amount of the bid or a certified check, cashier's check, or letter of credit in an amount equal to ten per cent of the bid. The bid guaranty generally provides that if the bid is accepted, the bidder will enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material. If the bidder fails to do so¹ and the contracting authority awards the contract to the next lowest bidder, the bidder and the surety on the bond are liable to the contracting authority for the difference between the bid and that of the next lowest bidder, or for a sum not to exceed 10% of the amount of the bond, whichever is less. Or, if the contracting authority resubmits the project for bidding, instead of awarding the contract to the next lowest bidder, the bidder failing to enter into the contract and the surety on the

¹ Two exceptions apply: (1) a bidder may withdraw a bid of a substantially lower price than that submitted by other bidders when an error was made and was due to a legitimate clerical mistake (R.C. 9.31), and (2) a bid may be withdrawn for a public improvement costing less than one-half million dollars if a bidder's bid for another contract costing less than that amount has already been accepted and the bidder and the bidder's surety certify in good faith that the bidder is unable to perform without exceeding the bidder's bonding capacity (R.C. 153.54(G)).

bond generally are liable to the contracting authority for a sum of not more than ten per cent of the amount of the bid or the costs connected with the resubmission, whichever is less.

In addition, the bid guaranty is conditioned to indemnify the contracting authority against all damage suffered by failure to perform the contract and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished under the contract.

Waiver of bid guaranty and indemnification requirements

The bill authorizes a contracting authority to waive the bid guaranty and indemnity requirements for a public improvement that is estimated to cost less than one-half million dollars. Waiver of the bid guaranty does not affect the bidder's general liability to the contracting authority if the bidder fails to enter into the contract. Similarly, waiver of the indemnity requirement does not affect the liability of a bidder or construction manager to perform the contract according to its provisions. (R.C. 153.54(A) and (C)(3).)

HISTORY

ACTION	DATE
Introduced	10-04-07

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