

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

2

HOUSE BILL 1035
Senate Commerce Committee Substitute Adopted 7/7/10

Short Title: Performance & Payment Bond Modification.

(Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PERFORMANCE AND PAYMENT BONDING
3 REQUIREMENT FOR CONSTRUCTION PROJECT CONTRACTS AWARDED BY
4 STATE DEPARTMENTS, STATE AGENCIES, AND THE UNIVERSITY OF NORTH
5 CAROLINA THAT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 44A-26 reads as rewritten:

8 "§ 44A-26. Bonds required.

9 (a) When the total amount of construction contracts awarded for any one project
10 exceeds three hundred thousand dollars (\$300,000), a performance and payment bond as set
11 forth in (1) and (2) is required by the contracting body from any contractor or construction
12 manager at risk with a contract more than fifty thousand dollars ~~(\$50,000)-(\$50,000); provided~~
13 that, for State departments, State agencies, and The University of North Carolina and its
14 constituent institutions, a performance and payment bond is required in accordance with this
15 subsection if the total amount of construction contracts awarded for any one project exceeds
16 five hundred thousand dollars (\$500,000). In the discretion of the contracting body, a
17 performance and payment bond may be required on any construction contract as follows:

18 (1) A performance bond in the amount of one hundred percent (100%) of the
19 construction contract amount, conditioned upon the faithful performance of
20 the contract in accordance with the plans, specifications and conditions of
21 the contract. Such bond shall be solely for the protection of the contracting
22 body that is constructing the project.

23 (2) A payment bond in the amount of one hundred percent (100%) of the
24 construction contract amount, conditioned upon the prompt payment for all
25 labor or materials for which a contractor or subcontractor is liable. The
26 payment bond shall be solely for the protection of the persons furnishing
27 materials or performing labor for which a contractor, subcontractor, or
28 construction manager at risk is liable.

29 (b) The performance bond and the payment bond shall be executed by one or more
30 surety companies legally authorized to do business in the State of North Carolina and shall
31 become effective upon the awarding of the construction contract."

32 SECTION 1.1. The Department of Administration, State Building Commission, is
33 directed to simplify the process of prequalification for publicly funded construction projects
34 and to report to the Joint Legislative Commission on Governmental Operations on the steps it is
35 taking to implement this objective by December 31, 2010.

36 SECTION 2. This act becomes effective October 1, 2010, and applies to
37 construction contracts awarded on or after that date.

