

## **BILL ANALYSIS**

Senate Research Center  
86R12425 MTB-D

S.B. 1456  
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Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Construction bonding is an insurance program to help mitigate risk on public sector projects should the construction entity goes insolvent, unable to complete project, etc. There are three types of construction bonds: payment, bid, and performance.

Payment bond insures the general contractor will pay all subcontractors, bid bonding insures the contractor will honor the bid, performance bond insures the contractor will complete the contract in accordance with the terms and conditions.

Currently, the State of Texas requires all construction projects have a payment bond for all construction contracts over \$25,000 (for non-municipalities) and performance bonds on construction contracts over \$100,000, as outlined in the Section 2253.021, Government Code.

S.B. 1456 seeks to raise the payment bond threshold from \$25,000 to \$100,000 for non-municipalities. A increased payment bond threshold to \$100,000 will reduce red tape, increase state's bidding pool, increase opportunities for new or smaller contractors, align the State of Texas to federal standards.

Obtaining a bond can be a significant hurdle for small contractors, typically requiring a large general contractor to act as a "broker" in order to bid for public projects. The increase from \$25,000 to \$100,000 allows more smaller contractors to pursue contracts individually. There is little risk in increasing this threshold as it is rare to find a project under \$100,000 that involves multiple subcontractors, thus demanding the fulfillment of a payment bond.

Committee Sub: the original bill mistakenly increased the performance bond threshold rather than the payment bond due to a drafting error. The committee substitute rectifies this error, modifying only the payment threshold and leaving performance bond threshold at current amount of \$100,000.

As proposed, S.B. 1456 amends current law relating to the requirement for performance bonds from certain public work contractors.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2253.021(a), Government Code, to require a governmental entity that makes a public work contract with a prime contractor to require the contractor, before beginning the work, to execute certain bonds under certain conditions to the governmental entity, including a performance bond if the contract is in excess of \$150,000, rather than in excess of \$100,000.

SECTION 2. Makes application of this Act to a public work contract for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, prospective.

SECTION 3. Effective date: September 1, 2019.