

FIRST REGULAR SESSION

# HOUSE BILL NO. 647

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SCHNEIDER.

1223L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 107.170, RSMo, and to enact in lieu thereof one new section relating to security of officers and contractors for public works.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 107.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 107.170, to read as follows:

107.170. 1. As used in this section, the following terms mean:

(1) "Contractor", a person or business entity who provides construction services under contract to a public entity. Contractor specifically does not include professional engineers, architects or land surveyors licensed pursuant to chapter 327, those who provide environmental assessment services or those who design, create or otherwise provide works of art under a city's formally established program for the acquisition and installation of works of art and other aesthetic adornments to public buildings and property;

(2) "Public entity", any official, board, commission or agency of this state or any county, city, town, township, school, road district or other political subdivision of this state;

(3) "Public works", the erection, construction, alteration, repair or improvement of any building, road, street, public utility or other public facility owned by the public entity.

2. It is hereby made the duty of all public entities in this state, in making contracts for public works, the cost of which is estimated to exceed twenty-five thousand dollars, to be performed for the public entity, to require every contractor for such work to furnish to the public entity, a bond with good and sufficient sureties, in an amount fixed by the public entity, and such bond, among other conditions, shall be conditioned for the payment of any and all materials, incorporated, consumed or used in connection with the construction of such work, and all

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 insurance premiums, both for compensation, and for all other kinds of insurance, said work, and  
19 for all labor performed in such work whether by subcontractor or otherwise. **When the cost of**  
20 **a public works contract exceeds twenty-five thousand dollars but is less than five hundred**  
21 **thousand dollars, in lieu of requiring said bond, the public entity may elect to contract with**  
22 **a title insurer, agency, or agent as defined in chapter 381 and authorized to conduct**  
23 **business as an escrow agent to receive and disburse funds upon receipt of proper**  
24 **documentation.**

25         3. All bonds executed and furnished under the provisions of this section shall be deemed  
26 to contain the requirements and conditions as herein set out, regardless of whether the same be  
27 set forth in said bond, or of any terms or provisions of said bond to the contrary notwithstanding.

28         4. Nothing in this section shall be construed to require a member of the school board of  
29 any public school district of this state to independently confirm the existence or solvency of any  
30 bonding company if a contractor represents to the member that the bonding company is solvent  
31 and that the representations made in the purported bond are true and correct. This subsection  
32 shall not relieve from any liability any school board member who has any actual knowledge of  
33 the insolvency of any bonding company, or any school board member who does not act in good  
34 faith in complying with the provisions of subsection 2 of this section.

35         5. A public entity may defend, save harmless and indemnify any of its officers and  
36 employees, whether elective or appointive, against any claim or demand, whether groundless or  
37 otherwise arising out of an alleged act or omission occurring in the performance of a duty under  
38 this section. The provisions of this subsection do not apply in case of malfeasance in office or  
39 willful or wanton neglect of duty.