

SENATE BILL NO. 228

1/22 Introduced
1/23 Referred to State Administration
2/06 Hearing
2/11 Committee Report-Bill Pass As Amended
2/13 2nd Reading Pass
2/15 3rd Reading Pass

Transmitted to House

2/27 Referred to State Administration
3/15 Hearing
3/15 Adverse Committee Report
3/16 Bill Killed

1 *Senate* BILL NO. *228*
 2 INTRODUCED BY *Boyer Edward Boyer*
 3 BY REQUEST OF THE GOVERNOR'S STATE BUILDING
 4 CONSTRUCTION ADVISORY COUNCIL

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
 7 OF ADMINISTRATION TO WAIVE THE REQUIREMENT FOR PERFORMANCE,
 8 LABOR, AND MATERIALS BONDS OR BID SECURITY ON CONSTRUCTION
 9 CONTRACTS UNDER \$25,000; AMENDING SECTIONS 18-2-201,
 10 18-2-202, AND 18-2-302, MCA; AND PROVIDING AN IMMEDIATE
 11 EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 18-2-201, MCA, is amended to read:
 15 "18-2-201. Bonding requirements. (1) Whenever Except
 16 as provided in subsection (4), whenever any board, council,
 17 commission, trustees, or body acting for the state or any
 18 county, municipality, or any public body shall contract with
 19 any person or corporation to do any work for the state,
 20 county, or municipality or other public body, city, town, or
 21 district, such board, council, commission, trustees, or body
 22 shall require the corporation, person, or persons with whom
 23 such contract is made to make, execute, and deliver to such
 24 board, council, commission, trustees, or body a good and
 25 sufficient bond with two or more sureties acceptable to the

1 governmental body letting the contract, or with a licensed
 2 surety company as surety, conditioned that such corporation,
 3 person, or persons shall:

4 (a) faithfully perform all of the provisions of such
 5 contract;

6 (b) pay all laborers, mechanics, subcontractors, and
 7 materialmen; and

8 (c) pay all persons who shall supply such corporation,
 9 person or persons, or subcontractors with provisions,
 10 provender, material, or supplies for the carrying on of such
 11 work.

12 (2) A copy of such bond shall be filed with the county
 13 clerk and recorder of the county where such work is
 14 performed or improvement made or, if to be performed in more
 15 than one county, then with the county clerk of either
 16 county, except in cases of cities and towns, in which case
 17 such bond shall be filed with the city or town clerk
 18 thereof.

19 (3) Notwithstanding the provisions of (1) and (2)
 20 above, the state or other governmental entity may, in lieu
 21 of a surety bond, permit the deposit with the contracting
 22 governmental entity or agency the following securities in an
 23 amount at least equal to the contract sum to guarantee the
 24 faithful performance of the contract and the payment of all
 25 laborers, suppliers, materialmen, mechanics, and



1 subcontractors:

- 2 (a) lawful money of the United States; or
- 3 (b) a cashier's check, certified check, bank money
- 4 order, or bank draft, drawn or issued by any banking
- 5 corporation incorporated under the laws of the state of
- 6 Montana or by a national banking association located in
- 7 Montana; or
- 8 (c) certificates of deposit or money market
- 9 certificates issued by any bank or savings and loan
- 10 association licensed to do business in Montana.

11 (4) The department of administration may waive the
12 requirements contained in subsections (1) through (3) for
13 building or construction projects defined in 18-2-101 that
14 cost less than \$25,000."

15 Section 2. Section 18-2-202, MCA, is amended to read:
16 "18-2-202. Failure to require bond -- waiver of bond.
17 If any board, council, commission, trustee, or body acting
18 for the state or any board of county commissioners or any
19 mayor and common council of any incorporated city or town or
20 tribunal transacting the business of any such municipal
21 corporation ~~shall--fail~~ waives or fails to take such bond,
22 cash, checks, drafts, money orders, or certificates of
23 deposit as herein required, the state or such county,
24 incorporated city or town, or other municipal corporation
25 shall be liable to the persons mentioned in 18-2-101

1 full extent and for the full amount of all of such debts so
2 contracted by any such subcontractor as well as such
3 contractor."

4 Section 3. Section 18-2-302, MCA, is amended to read:
5 "18-2-302. Bid security. Each (1) Except as provided
6 in subsection (2), each bid must be accompanied by bid
7 security in the amount of 10% of the bid, such security to
8 consist of cash, cashier's check, certified check, bank
9 money order, or bank draft, in any case drawn and issued by
10 a national banking association located in the state of
11 Montana or by any banking corporation incorporated under the
12 laws of the state of Montana, or a bid bond or bonds
13 executed by a surety corporation authorized to do business
14 in the state of Montana.

15 (2) The department of administration may waive the
16 requirements for bid security on building or construction
17 projects, as defined in 18-2-101, that cost less than
18 \$25,000."

19 NEW SECTION. Section 4. Extension of authority. Any
20 existing authority of the department of administration to
21 make rules on the subject of the provisions of this act
22 extended to the provisions of this act.

23 NEW SECTION. Section 5. Effective date. This act is
24 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

SENATE BILL NO. 228

INTRODUCED BY BOYLAN, ELLERD, ASAY, CRIPPEN
BY REQUEST OF THE GOVERNOR'S STATE BUILDING
CONSTRUCTION ADVISORY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
OF ADMINISTRATION STATE OR OTHER GOVERNMENTAL ENTITY TO
WAIVE THE REQUIREMENT FOR PERFORMANCE, LABOR, AND MATERIALS
BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER
\$25,000; AMENDING SECTIONS 18-2-201, 18-2-202, AND 18-2-302,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-201, MCA, is amended to read:

"18-2-201. Bonding requirements. (1) Whenever Except
as provided in subsection (4), whenever any board, council,
commission, trustees, or body acting for the state or any
county, municipality, or any public body shall contract with
any person or corporation to do any work for the state,
county, or municipality or other public body, city, town, or
district, such board, council, commission, trustees, or body
shall require the corporation, person, or persons with whom
such contract is made to make, execute, and deliver to such
board, council, commission, trustees, or body a good and
sufficient bond with two or more sureties acceptable to the

governmental body letting the contract, or with a licensed
surety company as surety, conditioned that such corporation,
person, or persons shall:

(a) faithfully perform all of the provisions of such
contract;

(b) pay all laborers, mechanics, subcontractors, and
materialmen; and

(c) pay all persons who shall supply such corporation,
person or persons, or subcontractors with provisions,
provender, material, or supplies for the carrying on of such
work.

(2) A copy of such bond shall be filed with the county
clerk and recorder of the county where such work is
performed or improvement made or, if to be performed in more
than one county, then with the county clerk of either
county, except in cases of cities and towns, in which case
such bond shall be filed with the city or town clerk
thereof.

(3) Notwithstanding the provisions of (1) and (2)
above, the state or other governmental entity may, in lieu
of a surety bond, permit the deposit with the contracting
governmental entity or agency the following securities in an
amount at least equal to the contract sum to guarantee the
faithful performance of the contract and the payment of all
laborers, suppliers, materialmen, mechanics, and



1 subcontractors:

2 (a) lawful money of the United States; or
 3 (b) a cashier's check, certified check, bank money
 4 order, or bank draft, drawn or issued by any banking
 5 corporation incorporated under the laws of the state of
 6 Montana or by a national banking association located in
 7 Montana; or

8 (c) certificates of deposit or money market
 9 certificates issued by any bank or savings and loan
 10 association licensed to do business in Montana.

11 (4) The department-of-administration STATE OR OTHER
 12 GOVERNMENTAL ENTITY may waive the requirements contained in
 13 subsections (1) through (3) for building or construction
 14 projects defined in 18-2-101 that cost less than \$25,000."

15 Section 2. Section 18-2-202, MCA, is amended to read:

16 "18-2-202. Failure to require bond -- waiver of bond.
 17 If any board, council, commission, trustee, or body acting
 18 for the state or any board of county commissioners or any
 19 mayor and common council of any incorporated city or town or
 20 tribunal transacting the business of any such municipal
 21 corporation ~~shall--fail~~ waives or fails to take such bond,
 22 cash, checks, drafts, money orders, or certificates of
 23 deposit as herein required, the state or such county,
 24 incorporated city or town, or other municipal corporation
 25 shall be liable to the persons mentioned in 18-2-201 to the

1 full extent and for the full amount of all of such debts so
 2 contracted by any such subcontractor as well as such
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4 Section 3. Section 18-2-302, MCA, is amended to read:

5 "18-2-302. Bid security. Each (1) Except as provided
 6 in subsection (2), each bid must be accompanied by bid
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 10 a national banking association located in the state of
 11 Montana or by any banking corporation incorporated under the
 12 laws of the state of Montana, or a bid bond or bonds
 13 executed by a surety corporation authorized to do business
 14 in the state of Montana.

15 (2) The department--of--administration STATE OR OTHER
 16 GOVERNMENTAL ENTITY may waive the requirements for bid
 17 security on building or construction projects, as defined in
 18 18-2-101, that cost less than \$25,000."

19 NEW SECTION. Section 4. Extension of authority. Any
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such contract is made to make, execute, and deliver to such
board, council, commission, trustees, or body a good and
sufficient bond with two or more sureties acceptable to the

governmental body letting the contract, or with a licensed
surety company as surety, conditioned that such corporation,
person, or persons shall:

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