



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (paulwesselhoft@okhouse.gov)

April 2, 2014

Paul Wesselhoft
Chairman, General Government Committee
2300 N. Lincoln Blvd.
Room 332
Oklahoma City, OK 73105

RE: Concerns with SB 1582, legislation to increase surety bond threshold requirements

Dear Chairman Wesselhoft:

On behalf of the members of the National Association of Surety Bond Producers (NASBP) a national trade organization of professional surety bond producers, whose membership includes resident and non-resident firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the U.S., including Oklahoma, I am contacting you regarding our strong opposition to Senate Bill 1582, which increases the statutory bond threshold on contracts for the construction of buildings used by a municipality, county, state, public trust, public agency or the federal government from \$50,000 to \$150,000. Such an increase will mean that many more tax-payer funded construction contracts will be procured without the vital assurance of performance and payment guarantees.

The Oklahoma legislature recognized the important, protective role surety bonds play on public works contracts by enacting Oklahoma Statutes, Title 61, Public Buildings and Public Works, specifically Section 61-1. Such statutory requirements ensure that only pre-qualified construction firms receive award of public contracts and those subcontractors and suppliers on those contracts have vital payment remedies in place in the event of non-payment.

NASBP is concerned that SB 1582 will have a negative impact on small businesses that supply labor and materials on Oklahoma public construction projects as well as the taxpayers of Oklahoma. Small businesses often cannot compete as prime contractors on public construction contracts, so they participate at subcontractor and supplier levels. At that level, these businesses only viable remedy in the event of nonpayment by the prime contractor is to claim on the statutorily-required payment bond. If the prime contractor fails to pay subcontractors and suppliers due to bankruptcy, or for other reasons, such subcontractors and suppliers do not have an alternative means to recover their wages, costs, and expenses. They cannot sue the governmental entity, since they do not have a direct contract with the governmental entity, and they cannot place a mechanic's lien against public property.

Furthermore, taxpayer dollars are at risk when state projects are awarded without the protection of performance bond guarantees. In the absence of a performance bond, additional taxpayer funds will be required to complete projects where prime contractors default in their performance of public construction

contracts. By increasing the surety bond requirements, contracting agencies also will have to shoulder a higher burden of screening and pre-qualifying more contractors, diverting their resources and energies away from other important tasks.

As noted above, the State of Oklahoma, its taxpayers, and its many businesses performing as subcontractors and suppliers on public construction projects have too much at risk should bonds not be in place due to a substantial increase of the bonding threshold.

NASBP urges you to leave the bonding threshold at its present level of \$50,000. If you have any questions concerning the issues raised, please feel free to contact me at 202-686-3700 or lleclair@nasbp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry LeClair". The signature is fluid and cursive, with the first name "Larry" and last name "LeClair" clearly distinguishable.

Larry LeClair,
Director, Government Relations