



National Association of Surety Bond Producers

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Sent via email to: h81@iga.in.gov and h56@iga.in.gov

Representative Martin Carbaugh
Chair, House Insurance Committee
Indiana General Assembly
200 W Washington St.
Indianapolis, IN 46204

Representative Richard Hamm
Vice Chair, House Insurance Committee
Indiana General Assembly
200 W Washington St.
Indianapolis, IN 46204

RE: Support of House Bill 1301

Dear Chair Carbaugh and Vice Chair Hamm,

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 in Indiana, I am contacting you to express our support of House Bill 1301, specifically the three amendments (*attached*) that specify the requirement of a performance and a payment bond for a public-private partnership agreement involving design and construction.

There is time-tested and sound public policy for the universal requirement of surety bonds on state public works projects. The payment bond guarantees that covered subcontractors, suppliers, and laborers on the job will get paid. Generally, mechanics liens cannot be asserted against public property. This may also be the case in public-private partnerships, where mechanics' lien rights are far from certain or clear. Subcontractors, suppliers, and laborers on public works projects must rely on the general contractor's payment bond for protection in the event of nonpayment. If no payment bond is required, these parties are left with little or no means to collect for their services and supplies if the contractor is unable or unwilling to pay them. The performance bond guarantees that the public works project will be undertaken by a qualified company and is completed according to the construction contract. Therefore, it is critical that there is no ambiguity and performance and payment bonds are explicitly required on P3 projects that involve the design and construction of a facility for public use.

For these reasons, we support of House Bill 1301, specifically the three amendments that specify the requirement of a performance and a payment bond for public-private partnerships and applaud you for your leadership to pass such legislation.

Respectively submitted for your consideration,

Larry LeClair
Director, Government Relations

Attachment

Attachment

Surety Bonding Amendments in HB 1301

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37 (6) The BOT agreement ~~may~~**must**:
38 (A) require a performance **bond in an amount equal to the**
39 **cost to design and construct the public facility; and**
40 (B) provide for the payment of contractors and subcontractors
41 under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is
42 applicable.

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39 (11) For a public-private agreement entered into after June
40 30, 2018, bond requirements as follows:
41 (A) A performance bond in an amount equal to the cost to
42 design and construct the project.

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1 (B) A payment bond conditioned on payment for labor and
2 material furnished for use in construction of the project.

Page 4 (con't)

19 (4) For a public-private agreement entered into after June 30,
20 2018, bond requirements as follows:
21 (A) A performance bond in an amount equal to the cost to
22 design and construct the project.
23 (B) A payment bond conditioned on payment for labor and
24 material furnished for use in construction of the project.