



Senate

General Assembly

File No. 428

January Session, 2009

Substitute Senate Bill No. 1035

Senate, April 2, 2009

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING EQUAL ACCESS TO OPPORTUNITIES FOR SUBCONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-41 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Each contract exceeding one hundred thousand dollars in
4 amount for the construction, alteration or repair of any public building
5 or public work of the state or a municipality shall include a provision
6 that the person to perform the contract shall furnish to the state or
7 municipality on or before the award date, a bond in the amount of the
8 contract which shall be binding upon the award of the contract to that
9 person, with a surety or sureties satisfactory to the officer awarding
10 the contract, for the protection of persons supplying labor or materials
11 in the prosecution of the work provided for in the contract for the use
12 of each such person, provided no such bond shall be required to be
13 furnished (1) in relation to any general bid in which the total estimated

14 cost of labor and materials under the contract with respect to which
15 such general bid is submitted is less than one hundred thousand
16 dollars, (2) in relation to any sub-bid (A) in which the total estimated
17 cost of labor and materials under the contract with respect to which
18 such sub-bid is submitted is less than one hundred thousand dollars,
19 or (B) when the person awarded the contract for the general bid has
20 furnished a bond under this subsection, or (3) in relation to any general
21 bid or sub-bid submitted by a consultant, as defined in section 4b-55.
22 Any such bond furnished shall have as principal the name of the
23 person awarded the contract.

24 (b) Nothing in this section or sections 49-41a to 49-43, inclusive,
25 shall be construed to limit the authority of any contracting officer to
26 require a performance bond or other security in addition to the bond
27 referred to in subsection (a) of this section, except that no such officer
28 shall require a performance bond in relation to any general bid in
29 which the total estimated cost of labor and materials under the contract
30 with respect to which such general bid is submitted is less than
31 twenty-five thousand dollars or in relation to any sub-bid in which the
32 total estimated cost of labor and materials under the contract with
33 respect to which such sub-bid is submitted is less than fifty thousand
34 dollars.

35 (c) No contract for the construction, alteration or repair of any
36 public building or public work of the state or a municipality that
37 requires a person to supply the state or municipality with a bond may
38 include a provision that requires the person to obtain the bond from a
39 specific surety, agent, broker or producer. No contracting officer may
40 require that a bond be obtained from a specific surety, agent, broker or
41 producer.

42 (d) In the event that any political subdivision of the state enters into
43 a contract described in subsection (a) of this section and fails to obtain
44 delivery from the contractor of the bond required by this section, any
45 person who has not been paid by the contractor for labor or materials
46 supplied in the performance of work under the contract shall have the

47 same legal right of action against such political subdivision of the state
48 as such person would have had against a surety under the provisions
49 of section 49-42. Nothing in this section shall be construed to extend
50 liability to the state for any person's right to payment or constitute a
51 waiver of the state's sovereign immunity.

52 (e) (1) As used in this subsection, "owner-controlled insurance
53 program" means an insurance procurement program under which a
54 principal provides and consolidates insurance coverage for one or
55 more contractors on one or more construction projects.

56 (2) No contract for the construction, alteration or repair of any
57 public building or public work of the state or a municipality may
58 include a provision that allows or requires the state or municipality to
59 maintain an owner-controlled insurance program, except for (A) a
60 project approved pursuant to section 10a-109e, or (B) one or more
61 municipal projects totaling one hundred million dollars or more (i)
62 under the supervision of one construction manager, or (ii) located
63 within the boundaries of a municipality if under the supervision of
64 more than one construction manager.

65 (3) Each contract or policy of insurance issued under an owner-
66 controlled insurance program pursuant to this subsection shall provide
67 that:

68 (A) Coverage for work performed and materials furnished shall
69 continue from the completion of the work until the date all causes of
70 action are barred under any applicable statute of limitations.

71 (B) Any notice of a change in coverage under the contract or policy
72 or of a cancellation or refusal to renew the coverage under the contract
73 or policy shall be provided to the principal and all contractors covered
74 under the program.

75 (C) The effective date of a (i) change in coverage under the contract
76 or policy shall be at least thirty days after the date the principal and
77 contractors receive the notice of change in coverage as required under

78 subparagraph (B) of this subdivision, and (ii) cancellation or refusal to
79 renew shall be at least sixty days after the principal and contractors
80 receive the notice of change in coverage as required under
81 subparagraph (B) of this subdivision.

82 (4) Each principal or contractor shall disclose in the project plans or
83 specifications at the time the principal or contractor is soliciting bids
84 for the construction project that the project will be covered by an
85 owner-controlled insurance program.

86 (f) Whenever a surety bond is required in connection with a contract
87 for the construction, reconstruction, alteration, remodeling, repair or
88 demolition of any public building for work by the state or a
89 municipality, that is estimated to cost more than five hundred
90 thousand dollars and is paid for, in whole or in part, with state funds,
91 the surety contract between the contractor named as principal in the
92 bond and the surety that issues such bond shall contain the following
93 provision: "In the event that the surety assumes the contract or obtains
94 a bid or bids for completion of the contract, the surety shall ensure that
95 the contractor chosen to complete the contract is prequalified pursuant
96 to section 4a-100 of the Connecticut general statutes in the requisite
97 classification and has the aggregate work capacity rating and single
98 project limit necessary to complete the contract".

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	49-41

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sSB 1035

***AN ACT CONCERNING EQUAL ACCESS TO OPPORTUNITIES
FOR SUBCONTRACTORS.***

SUMMARY:

This bill exempts subcontractors from bonding requirements for state and municipal public building and public works projects when the firm selected as the general contractor has filed the bond required by law. By law, general contractors post bonds on contracts valued at over \$100,000. The amount of the bond must be equal to the value of the contract.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2009)