



General Assembly

January Session, 2009

Amendment

LCO No. 7207

SB0103507207SRO

Offered by:
SEN. FASANO, 34th Dist.

To: Subst. Senate Bill No. 1035 File No. 846 Cal. No. 338

"AN ACT CONCERNING A SURETY BOND GUARANTEE PROGRAM FOR EMERGING CONTRACTORS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 49-41 of the general statutes is repealed and the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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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