

SENATE BILL No. 55

By Committee on Federal and State Affairs

1-23

1 AN ACT concerning public construction contracts; relating to performance
2 and payment bonds; Kansas fairness in public construction contract act.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Prior to entering into a contract with an owner for an
6 amount of \$25,000 or more that involves a public-private agreement, the
7 contractor shall furnish to the owner or owner's agent the following bonds,
8 which shall be placed with good and sufficient sureties as determined by
9 the public owner and shall become binding upon the award of the contract
10 by the owner or owner's agent to the contractor:

11 (1) If a performance bond is not otherwise required pursuant to state
12 law, a performance bond in an amount equal to the full contract amount
13 conditioned upon the faithful performance of the contract in accordance
14 with plans, specifications and conditions thereof, made solely for the
15 protection of the owner awarding the contract; and

16 (2) a payment bond in an amount equal to the full contract amount
17 solely for the protection of claimants supplying labor or materials to the
18 contractor or subcontractors in the performance of the work.

19 (b) Each bond shall include a provision allowing the prevailing party
20 in any action on the bond to recover as a part of the judgment reasonable
21 attorney fees and expenses as determined by the court.

22 (c) For purposes of this section:

23 (1) "Public-private agreement" means an agreement for public
24 construction involving a nontraditional arrangement between the owner
25 and one or more private entities, including a contractor, that provides for
26 acceptance by the owner of a private contribution to the public
27 construction project in exchange for a public benefit concerning such
28 public construction project other than only a money payment;

29 (2) "private contribution" means the supply by a private entity of
30 resources to accomplish all or any part of the work to be performed under
31 a public-private agreement, including, but not limited to, funds, financing,
32 supplies, materials or engineering or construction services; and

33 (3) "public benefit" means a grant by the owner of a right or interest
34 in or concerning the construction project and may include receipts or
35 revenue arising out of, or in connection with, the grant of a right or interest
36 in the construction project.

- 1 (d) This section shall be a part of and supplemental to the Kansas
- 2 fairness in public construction contract act.
- 3 Sec. 2. This act shall take effect and be in force from and after its
- 4 publication in the statute book.