

Regular Session, 2010

SENATE BILL NO. 70

BY SENATOR APPEL

PUBLIC CONTRACTS. Provides for Surety Insurance Disclosure Act under the Public Contracts Law.(8/15/10)

1 AN ACT

2 To enact Part I-A of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 38:2200 and R.S. 38:2200.1 through 2200.5, relative to public
4 contracts and surety; to enact the "Surety Insurance Disclosure Act"; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Part I-A of Chapter 10 of Title 38 of the Louisiana Revised Statutes of
8 1950, comprised of R.S. 38:2200 and R.S. 38:2200.1 through 2200.5, is hereby enacted to
9 read as follows:

10 **PART I-A. SURETY INSURANCE DISCLOSURE ACT**

11 **§2200. Short title**

12 **This Part shall be known as the "Surety Insurance Disclosure Act."**

13 **§2200.1. Applicability**

14 **The provisions of this Part shall apply to any public entity and to either**
15 **any bid or any contract, or both, subject to the provisions of Chapter 10 of Title**
16 **38 of the Louisiana Revised Statutes of 1950, that requires a bidder or**
17 **contractor to furnish surety or bond either for payment, faithful performance,**

1 **or both.**

2 **§2200.2. Name of surety insurance company; identification number; display;**
3 **requirements**

4 **A. A public entity shall require that the full name of the surety**
5 **insurance company and the identification number assigned to that surety**
6 **insurance company by the National Association of Insurance Commissioners**
7 **(NAIC) shall be plainly visible on the outside of a sealed envelope that contains**
8 **a bid form prior to public bid opening and on the bid form.**

9 **B. A public entity shall require that the full name of the surety insurance**
10 **company and the identification number assigned to that surety insurance**
11 **company by the NAIC shall be plainly visible on a bond either for payment or**
12 **faithful performance, or both, of the contract.**

13 **C. The provisions of this Part shall not be subject to waiver and shall be**
14 **deemed a matter of public policy.**

15 **§2200.3 Rejection of certain bidders**

16 **A. Any bid submitted contrary to the provisions of this Part is irregular**
17 **and shall be rejected by the public entity.**

18 **B. The public entity shall reject and return unopened a bid envelope**
19 **which fails to display in a plainly visible manner, the full name of the surety**
20 **insurance company and the identification number assigned to that surety**
21 **insurance company by the NAIC, or which displays false, misleading, or**
22 **incorrect information relative to the surety insurance company.**

23 **C. The public entity shall reject and return a bid form which fails to**
24 **display, in a plainly visible manner, the full name of the surety insurance**
25 **company and the identification number assigned to that surety insurance**
26 **company by the NAIC, or displays false, misleading, or incorrect information**
27 **relative to the surety insurance company.**

28 **§2200.4. Remedy; penalty**

29 **A. There shall be no cause of action and no challenge by protest, appeal,**

1 legal process, or otherwise, when a public entity rejects a bid pursuant to the
2 provisions of this Part.

3 B. Submission of a bid which contains false, misleading, or incorrect
4 information relative to the surety insurance company shall subject the bidder
5 and surety insurance company to penalties as provided by law.

6 §2200.5. Substitution of surety

7 Notwithstanding the provisions of this Part, prior to execution of a
8 contract, a successful bidder may substitute the surety or bond only upon the
9 express written consent of the public entity, provided both the original surety
10 insurance company and the substitute surety insurance company shall meet the
11 requirements of R.S. 38:2219(A)(1)(a).

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

Proposed law enacts the "Surety Insurance Disclosure Act."

Proposed law applies to any public entity and to either any bid or any contract, or both, subject to Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 [R.S. 38:2181 et. seq.] that requires a bidder or contractor to furnish surety or bond for payment, faithful performance, or both.

Proposed law provides that public entity shall require that the full name of the surety insurance company and the identification number assigned to that surety insurance company by the National Association of Insurance Commissioners (NAIC) shall be plainly visible on the outside of a sealed envelope that contains a bid form prior to public bid opening and on the bid form.

Proposed law provides that public entity shall require that the full name of the surety insurance company and the identification number assigned to that surety insurance company by the NAIC shall be plainly visible on a bond either for payment or faithful performance, or both, of the contract.

Proposed law provides that the provisions of this Part shall not be subject to waiver and shall be a matter of public policy.

Proposed law provides any bid submitted contrary to the provisions of this Part is irregular and shall be rejected by the public entity.

Proposed law provides that a public entity shall reject and return unopened a bid envelope which fails to display, in a plainly visible manner, the full name of the surety insurance company and its assigned NAIC identification number or which displays false, misleading or incorrect information relative to the surety insurance company.

Proposed law provides that a public entity shall reject and return unopened a bid form which

fails to display in a plainly visible manner, the full name of the surety insurance company and its assigned NAIC identification number or displays false, misleading or incorrect information relative to the surety insurance company.

Proposed law provides that there shall be no cause of action and no challenge by protest, appeal, legal process, or otherwise when a public entity rejects a bid pursuant to the provisions of this Part.

Proposed law provides that submission of bid which contains false, misleading or incorrect information relative to the surety insurance company subjects the bidder and surety insurance company to penalties as provided by law.

Proposed law authorizes substitution of a surety or bond by a successful bidder prior to contract execution upon written consent of the public entity provided both the original and substitute surety insurance company meet the requirements of R.S. 38:2219(A)(1)(a).

Effective August 15, 2010.

(Adds R.S. 38:2200 and R.S. 38:2200.1 through 2200.5)