



SPONSOR: Sen. DeLuca & Sen. Peterson &
Rep. DiPinto; Sen. Vaughn; Reps. Lofink, Hudson

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 345

AN ACT TO AMEND TITLE 29, SECTION 6962 OF THE DELAWARE CODE RELATING TO PUBLIC WORKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 6962(a), Title 29 of the Delaware Code, by deleting it in its entirety and substituting in lieu
2 thereof the following:

3 “Any State contract for which an agency is a party where a construction manager awards and enters into
4 contracts, on behalf of the agency with trade contractors and in either case for which the probable cost is greater than the
5 amount set by the Contracting and Purchasing Advisory Council pursuant to §6913 of this Title for small public works
6 contracts shall be subject to the provisions of this section.”

7 Section 2. Amend Section 6962(d)(9)a., Title 29 of the Delaware Code by adding the following phrase at the
8 beginning of said subsection :

9 “1. In the case of a general contractor,”.

10 Section 3. Amend Section 6962(d)(9)a., Title 29 of the Delaware Code by adding language at the end of said
11 subsection to read as follows:

12 “2. In the case of a construction manager that awards and enters into contracts with trade contractors,
13 simultaneous with the execution of the formal contract between the contracting agency and construction manager, the
14 construction manager shall execute a good and sufficient bond to the contracting agency for the benefit of the agency,
15 with the corporate surety authorized to do business in this State, in a sum equal to 100 percent of the estimated value
16 of all goods and services required to complete the project for which the construction manager has been procured by an
17 agency, on the standard form issued by the Department of Administrative Services.

18 3. In the case of a construction manager where the construction manager acts as an agent of the contracting
19 agency and does not award or enter into contracts with trade contractors, the construction manager shall not be
20 required to execute a performance or payment bond. Each prime contractor, which for the purpose of this section

21 shall be defined as any general or trade contractor that holds a contract awarded by the contracting agency, shall
22 simultaneous with the execution of the formal contract with the contracting agency execute a good and sufficient bond
23 to the contracting agency for the benefit of the agency, with the corporate surety authorized to do business in this
24 State, in a sum equal to 100 percent of the value of the contract, on the standard form issued by the Department of
25 Administrative Services.”

SYNOPSIS

This language clarifies that agencies must bid large public works contracts when a construction manager awards and enters into contracts with trade contractors. The Bill also makes it clear that agencies must require a performance and payment bond from either a construction manager or prime contractors, depending on the type of contractual relationship between the contracting agency and construction manager, when executing a contract for a public works project when a construction manager is used.

Author: Sen. DeLuca