

HB 199 -- CONTRACTS WITH PUBLIC ENTITIES

SPONSOR: Falkner

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Local Government by a vote of 13 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 8 to 0.

The bill adds the definition of a "public official" as it relates to public works contracts and modifies the definition of "public entity".

Current law requires public entities, when contracting for certain public works, to require the contractor to furnish a bond. This bill clarifies that the requirement only applies to property exempt from attachment and execution.

Currently, courthouses, jails, clerks' offices, and other buildings and the lots on which they stand owned by a county or municipality, as well as all burial grounds, are exempt from attachment and execution. This bill expands the exemption to other lands owned by the State; any public body corporate and politic; any county, city, town, municipality; any road, water, sewer, fire, library, hospital, or school district; and any other political subdivision of this State.

The bill allows the State or any entity specified above to consent to have certain projects and the lands thereon, that are, or are intended to be, leased primarily to a private entity for nongovernmental use to become subject to the attachment of mechanics' liens filed under Chapter 429, RSMo, if the consent is in writing, contains a legal description of the property subject to the attachment, and is acknowledged by an authorized official in a form that can be and is recorded in the office of the recorder of deeds for the county where the property is located. If such consent has been executed, no bond is required for the contracted work, from either the contractor or the public entity's lessee.

Currently, a school board member is not required to independently confirm that a bond company exists and is solvent if a contractor represents that it is, but the school board member is not exempt from liability if he or she has actual knowledge of the insolvency or does not in good faith comply with the law in requiring the contractor to have a sufficient lawful bond. The bill expands both the lack of duty to verify the status of the bond company and the lack of exemption from liability for actual knowledge regarding a bond company from a school board member to all public officials.

This bill is similar to HB 1724 (2024).

PROPONENTS: Supporters say that chapter 100 bonds are useful for attracting businesses to an area, but create difficulties in some circumstances in which a business subsequently wants to expand. Allowing the use of mechanics liens will greatly simplify the process and provide local governments another tool to support the development of businesses in their areas.

Testifying in person for the bill were Representative Falkner; Missouri Economic Development Financing Association; Missouri Municipal League; Missouri Chamber of Commerce and Industry.

OPPONENTS: Those who oppose the bill say that tax abatements in lieu of payments is a bad deal. Currently, municipalities have relatively low risk. This bill puts more liability on the municipality. Expanding this process to public officials and to different types of political subdivisions is a bad idea. This process should be very narrow and available only to companies that plan to make big investments in a community and bring in lots of jobs. In many cases these mechanisms don't make financial sense for taxpayers.

Testifying in person against the bill was Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.