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HB 18-1383

**FINAL
FISCAL NOTE**

Drafting Number: LLS 18-0622
Prime Sponsors: Rep. Winter
Sen. Priola

Date: May 30, 2018
Bill Status: Postponed Indefinitely
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Bill Topic: BOND REQMNTS FOR PUBLIC PROJECTS USING PRIVATE FINANCING

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>)
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill would have extended performance and payment bond requirements for qualifying construction projects to projects on public real property involving private financing. The bill may have increased expenditures for state and local government entities. It may also have lead to a minimal increase in state revenue. These impacts would have been ongoing.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill extends certain contractor bonding requirements to projects financed in whole or part by a private entity, so long as a project is located on public real property. The bonding requirements addressed by the bill include:

- a payment bond for a public works or construction project costing more than \$50,000 for a county, municipality, or school district;
- a performance bond for a public works or construction project costing more than \$50,000 for a county, city and county, municipality, school district, or other political subdivision of the state; and
- a performance bond for a public works or construction project costing more than \$150,000 for a state entity.

Revenue

The bill may minimally increase revenue in the Judicial Department from court filing fees if the number of claims related to bonded construction contracts increases as a result of this bill.

TABOR Refund

This bill may increase state revenue from court filing fees, which would increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18. Since the bill may increase the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget would decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

State procurement rules already require contractors to comply with the bonding requirements in law, regardless of whether a private entity is financing some or all of a project on public real property. However, one agency indicated that the requirements of the bill could discourage private investment in public projects if a private entity determines that it could get comparatively more project done for a lesser cost at another location. This fiscal note assumes that this will be a minimal impact.

The bill may minimally increase workload for the trial courts to address an increase in claims related to bonded construction contracts that was not previously covered by the bond requirements in law.

Local Government

Some local government entities may see increased project costs associated with the bonding requirements under the bill. These increases are expected to be minimal.

Effective Date

The bill was postponed indefinitely by the Senate Finance Committee on May 2, 2018.

State and Local Government Contacts

All Local/non-state Agencies

All State Agencies