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SENATE BILL 71

SUMMARY OF REVISIONS TO STATUE ON LIABILITY FOR LABOR INDEBTEDNESS (NRS 608.150)

Submitted by Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, 150 North Durango Drive, Suite 100, Las Vegas, Nevada 89145.

Purpose: Senate Bill 71 is intended to provide surety for monies owed by a contractor or subcontractor for wages and benefits due its employees and for contributions or premiums to be paid on the account of employees of the contractor or subcontractor as required by chapters 616A to 617, inclusive, of NRS. Senate Bill 71 is also intended to clarify NRS 608.150 by making it clear that the person or entity owed the money may seek recovery from either: 1) the original or prime contractor; 2) the surety bond required by the original or prime contractor; or, 3) the contractor or subcontractor who owes the money.

Section 1, lines 1-2, page 1: Section 1 is being added to chapter 608 of NRS to ensure that a surety must honor a surety bond that it has issued in an expedited manner.

Section 1, lines 3-12, page 1: Subsection 1 of Section 1 gives the surety 30 days in which to respond to a claim against it's surety bond.

Section 1, lines 13-14, page 1 and lines 1-15, page 2: Paragraphs (a), (b) and (c) of Subsection 1, Section 1, require and define objective evidence that must be submitted to support a claim against a surety bond.

Section 1, lines 16-30, page 2: Subsection 2, Section 1, makes a surety liable for interest, court costs and reasonable attorney's fees if it fails to respond to a claim against its surety bond in a timely manner.

Section 1, lines 31-35, page 2: Subsection 3, Section 1, makes the surety liable for amounts that may exceed the amount of the surety bond.

Section 1, lines 36-41, page 2: Subsection 4, Section 1, allows a surety to deduct it's costs for interpleader.

Section 2, lines 6-14, page 3: Subsection 2, Section 2, allows an original or prime contractor to require his subcontractors to obtain a surety bond covering their prospective indebtedness for labor.

Section 2, lines 15-20, page 3: Subsection 3, Section 2, makes a required surety bond good for the life of the construction project plus one year.

ASSEMBLY COMMERCE & LABOR 183
DATE: 4/30/03 ROOM: 400 EXHIBIT
SUBMITTED BY: Steve Holloway

Section 2, lines 21-32, page 3: Subsection 4, Section 2, allows the prime contractor to obtain the surety bond at the subcontractor's expense if the subcontractor fails to do so within 15 days of when required to do so.

Section 2, lines 33-45, page 3: Subsection 5, Section 2, requires the original or prime contractor to include the requirement for a surety bond in the request for bids. If he fails to do so, the original contractor must pay the cost of any surety bond subsequently required by him.

Section 2, lines 6-18, page 4: Subsection 7, Section 2, is simply a conforming amendment.

Section 2, lines 19-25, page 4: Subsection 8, Section 2, makes it clear that the person or entity owed the money may seek recovery from the contractor or subcontractor who owes the money as well as the original or prime contractor or the surety bond.

TESTIMONY IN FAVOR OF SENATE BILL NO. 71

Submitted by Steve G. Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, 150 N. Durango Dr., Suite 100, Las Vegas, NV 89145 on behalf of the Associated General Contractors, Framing Contractors Association, National Association of Minority Contractors and National Association of Women in Construction.

Associated General Contractor representatives, including myself, serve on numerous labor-management health and welfare trusts. Upon the advise of the attorneys for these trusts, we have often ignored the subcontractor who owes money to these trusts and gone after the prime contractor who employed that subcontractor. This is analogous to you having to pay for the benefits of the staff of a janitor or house cleaner if he failed to pay those benefits while he was employed by you.

NRS 608.150 makes the prime contractor on any construction project liable for any labor indebtedness of any of his subcontractors. We don't propose to change this. Senate Bill 71 is a compromise. It simply provides additional security in the form of a surety bond to protect a construction worker or a person or entity owed money as a result of the labor of that construction worker.

Senate Bill 71 also makes it clear even for trust attorneys that a person or entity owed money for labor or the labor indebtedness of a subcontractor may seek recovery from either: 1) the original or prime contractor; 2) the surety bond required by the original or prime contractor; or, 3) the contractor or subcontractor who owes the money.

We believe that Senate Bill 71, which was unanimously passed by the Senate, has the support of all affected parties and respectfully ask that you too support it.

Thank you.