

SENATE BILL No. 475

By Committee on Federal and State Affairs

2-18

1 AN ACT concerning public construction contracts; relating to performance
2 and payment bonds; Kansas fairness in public construction contract act.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Prior to entering into a contract with an owner for an
6 amount of \$25,000 or more that involves a public-private agreement, the
7 contractor shall furnish to the owner or owner's agent the following bonds,
8 which shall become binding upon the award of the contract by the owner
9 or owner's agent to the contractor:

10 (1) If a performance bond is not otherwise required pursuant to state
11 law, a performance bond in an amount equal to the full contract amount
12 conditioned upon the faithful performance of the contract in accordance
13 with plans, specifications and conditions thereof, made solely for the
14 protection of the owner awarding the contract; and

15 (2) a payment bond in an amount equal to the full contract amount
16 solely for the protection of claimants supplying labor or materials to the
17 contractor or subcontractors in the prosecution of the work.

18 (b) Each bond shall include a provision allowing the prevailing party
19 in any action on the bond to recover as a part of the judgment reasonable
20 attorney fees and expenses as determined by the court.

21 (c) For purposes of this section:

22 (1) "Public-private agreement" means an agreement for public
23 construction involving a nontraditional arrangement between the owner
24 and one or more private entities, including a contractor, that provides for
25 acceptance by the owner of a private contribution to the public
26 construction project in exchange for a public benefit concerning such
27 public construction project other than only a money payment;

28 (2) "private contribution" means the supply by a private entity of
29 resources to accomplish all or any part of the work to be performed under
30 a public-private agreement, including, but not limited to, funds, financing,
31 supplies, materials or engineering or construction services; and

32 (3) "public benefit" means a grant by the owner of a right or interest
33 in or concerning the construction project and may include receipts or
34 revenue arising out of, or in connection with, the grant of a right or interest
35 in the construction project.

36 (d) This section shall be a part of and supplemental to the Kansas

- 1 fairness in public construction contract act.
- 2 Sec. 2. This act shall take effect and be in force from and after its
- 3 publication in the statute book.