${\bf By}$ the Committee on Governmental Oversight and Productivity; and Senator Sebesta

302-2224-04

| 1 | A bill to be entitled |
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| 2 | An act relating to public construction bonds; |
| 3 | amending s. 255.05, F.S.; revising requirements |
| 4 | for the form used for public construction |
| 5 | bonds; requiring payment provisions of public |
| 6 | construction bonds to be construed as statutory |
| 7 | bonds; requiring payment bond forms to |
| 8 | reference notice and time limitation |
| 9 | provisions; providing an effective date. |
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| 11 | Be It Enacted by the Legislature of the State of Florida: |
| 12 | |
| 13 | Section 1. Subsections (3) , (4) , and (6) of section |
| 14 | 255.05, Florida Statutes, are amended to read: |
| 15 | 255.05 Bond of contractor constructing public |
| 16 | buildings; form; action by materialmen |
| 17 | (3) The bond required in subsection (1) may be in |
| 18 | substantially the following form: |
| 19 | |
| 20 | PUBLIC CONSTRUCTION BOND |
| 21 | |
| 22 | Bond No. (enter bond number) |
| 23 | |
| 24 | BY THIS BOND, We, as Principal and, a |
| 25 | corporation, as Surety, are bound to, herein called |
| 26 | Owner, in the sum of \$, for payment of which we bind |
| 27 | ourselves, our heirs, personal representatives, successors, |
| 28 | and assigns, jointly and severally. |
| 29 | THE CONDITION OF THIS BOND is that if Principal: |
| 30 | 1. Performs the contract dated,, between |
| 31 | Principal and Owner for construction of, the contract |

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CODING: Words stricken are deletions; words underlined are additions.

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being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

- 2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
- 3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
- 4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in subsection (2).

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

24 DATED ON,

...(Name of Principal)...

By ...(As Attorney in Fact)...

...(Name of Surety)...

29 (4) The payment provisions of all bonds <u>required by</u>
30 furnished for public work contracts described in subsection

(1) shall, regardless of form, be construed and deemed

statutory bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds bond provisions, subject to all requirements of subsection (2). (6) All payment bond forms used by a public owner and all payment bonds executed pursuant to this section by a surety shall make reference to this section by number and shall contain reference to the notice and time limitation provisions in subsection (2) of this section. Section 2. This act shall take effect upon becoming a law. STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 1600 Removes bill's requirement that public construction form is mandatory. Adds bond number and language regarding notice and time limitations to permissive public construction bond form. Provides that all public construction bonds are to be construed as statutory bonds.