

By: Wentworth

S.B. No. 1580

A BILL TO BE ENTITLED

AN ACT

1
2 relating to bond requirements for privatized maintenance
3 contracts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 223.042, Transportation Code, is amended
6 by adding Subsections (i), (j), and (k) to read as follows:

7 (i) Before beginning work, a private sector contractor
8 awarded a contract under this section shall post a bond securing the
9 contractor's performance under the contract. Notwithstanding any
10 other law, including Chapter 2253, Government Code, if a contract
11 awarded under this section covers more than one year, the
12 contractor shall post a bond annually in an amount equal to the
13 amount to be paid to the contractor over the life of the contract,
14 excluding any penalties or bonuses, divided by the number of years
15 covered by the contract.

16 (j) A bond posted under Subsection (i) must:

17 (1) be solely for the protection of the department;

18 and

19 (2) be conditioned on the faithful performance of the
20 maintenance work in accordance with the contract requirements.

21 (k) If a private sector contractor awarded a contract under
22 this section fails to post a bond as required, the contract
23 terminates and the department is excused from any future
24 performance under the contract. A surety that issues a bond

1 required under Subsection (i) is:

2 (1) liable only for claims accruing during the term of
3 the bond; and

4 (2) not liable for the private sector contractor's
5 failure to post a bond during a year covered by the contract.

6 SECTION 2. (a) This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2003.

11 (b) A maintenance contract entered into by the Texas
12 Department of Transportation before September 1, 2003, under
13 Section 223.042, Transportation Code, is governed during the
14 remaining term of the contract by Section 223.042, Transportation
15 Code, as it existed immediately before September 1, 2003, and the
16 prior law is continued in effect for that purpose. Section 223.042,
17 Transportation Code, as amended by this Act, applies to the renewal
18 of a contract described by this subsection.