



February 14, 2012

Senator John Carlson  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
Capitol Building, Room 320  
St. Paul, MN 55155-1606  
651.296.4913  
Email: [sen.john.carlson@senate.mn](mailto:sen.john.carlson@senate.mn)

RE: SF 1673

Dear Senator Carlson:

I am contacting you in my role as Region 5 Director for the National Association of Surety Bond Producers (NASBP) a national trade organization of professional surety bond producers, whose membership includes firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout Minnesota and the United States. Surety bonds play a vital role in our nation's economy by providing financial security to protect project owners and taxpayers by assuring that contractors are qualified to perform their contractual obligations and that subcontractors and suppliers furnishing labor and materials under the contract will be paid.

You recently introduced legislation, Senate File (SF) 1673 that increases the performance and payment bond requirements for state public works projects from \$75,000 to \$100,000. I am concerned that this legislation will have a negative impact on businesses that supply labor and materials on Minnesota public construction projects as well as the taxpayers of Minnesota.

Small businesses often cannot compete as prime contractors on public construction contracts, so they participate at subcontractor and supplier levels. At that level, small businesses only viable remedy in the event of nonpayment by the prime contractor is to claim on the statutorily-required payment bond. If the prime contractor fails to pay subcontractors and suppliers due to bankruptcy, or for other reasons, such subcontractors and suppliers do not have an alternative means to recover their wages, costs, and expenses. They cannot sue the governmental entity, since they do not have a direct contract with the governmental entity, and they cannot place a mechanic's lien against public property.

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Furthermore, taxpayer dollars are at risk when state projects are awarded without the protection of performance bond guarantees. In the absence of a performance bond, additional taxpayer funds will be required to complete projects where prime contractors default in their performance of state construction contracts. By increasing the surety bond requirements, state contracting agencies also will have to shoulder a higher burden of screening and pre-qualifying more contractors, diverting their resources and energies away from other important tasks.

Currently, 29 states including Minnesota have bonding requirements which are below \$75,000. As noted above, the State of Minnesota, its taxpayers, and its many businesses performing as subcontractors and suppliers on state projects have too much at risk should bonds not be in place due to an increase of the bonding threshold to \$100,000.

I urge you to leave the bonding threshold at its present level. If you have any questions concerning the issues I have raised, I would be happy to speak with you or to meet with you in person.

The following Minnesota company representatives listed below also urges you to leave the bonding threshold at its present level.

Sincerely,  
GUSSO SURETY BONDS, INC.



Jason Gusso  
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NASBP Region 5 Director  
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