

Assembly Bill No. 263

CHAPTER 181

An act to add Section 995.311 to the Code of Civil Procedure, relating to bonds.

[Approved by Governor August 12, 2001. Filed with Secretary of State August 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 263, Correa. Bonds: public works contracts.

Existing law, the Bond and Undertaking Law, provides a comprehensive system for the execution and approval of bonds and undertakings. Existing law provides that a bond shall be executed by 2 or more sufficient personal sureties, or by one sufficient admitted surety insurer, or by any combination of sufficient personal sureties and admitted surety insurers, unless the statute providing for the bond requires execution by an admitted surety insurer.

This bill would provide that any bond required on a public works contract, as defined, shall be executed by an admitted surety insurer. This bill would require a public agency approving the bond on a public works contract to verify that the bond is being executed by an admitted surety insurer, and would provide that the public agency may fulfill this duty by either obtaining specified information from the Department of Insurance website or from the county clerk and attaching it to the bond. By increasing the duties of local agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 995.311 is added to the Code of Civil Procedure, to read:

995.311. (a) Notwithstanding any other provision of law, any bond required on a public works contract, as defined in Section 1101 of the Public Contract Code, shall be executed by an admitted surety insurer. A public agency approving the bond on a public works contract shall have a duty to verify that the bond is being executed by an admitted surety insurer.

(b) A public agency may fulfill its duty under subdivision (a) by verifying the status of the party executing the bond in one of the following ways:

(1) Printing out information from the website of the Department of Insurance confirming the surety is an admitted surety insurer and attaching it to the bond.

(2) Obtaining a certificate from the county clerk that confirms the surety is an admitted insurer and attaching it to the bond.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

