

# STATE OF NEW YORK

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7522

2023-2024 Regular Sessions

## IN SENATE

June 2, 2023

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Introduced by Sen. COONEY -- (at request of the Office of General Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public buildings law and the state finance law, in relation to work done by special order and bonds to secure payment of certain claims arising from a public improvement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The second undesignated paragraph of section 6 of the  
2 public buildings law, as amended by section 1 of part N of chapter 55 of  
3 the laws of 2015, is amended to read as follows:

4 Notwithstanding any inconsistent provisions of law, the commissioner  
5 of general services may by rules delegate to the agency or department  
6 having custody of any public building full responsibility for the prepa-  
7 ration of plans and specifications and the supervision of minor, routine  
8 or uncomplicated construction, reconstruction, alteration, improvement  
9 or repair of any such building, providing the value of such work shall  
10 not exceed [~~one~~] two hundred [~~fifty~~] thousand dollars.

11 § 2. Section 20 of the public buildings law, as amended by section 12  
12 of part FF of chapter 56 of the laws of 2010, is amended to read as  
13 follows:

14 § 20. Work done by special order. The commissioner of general services  
15 shall determine when minor work of construction, reconstruction, alter-  
16 ation or repair of any state building may be done by special order.  
17 Special orders for such work shall be short-form contracts approved by  
18 the attorney general and by the comptroller. No work shall be done by  
19 special order in an amount in excess of [~~one~~] two hundred thousand  
20 dollars and a bond shall not be required for special orders. No work  
21 shall be done by special order unless the commissioner has presented to  
22 the comptroller evidence that he has made a diligent effort to obtain  
23 competition sufficient to protect the interests of the state prior to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

LBD06729-01-3

1 selecting the contractor to perform the work. Notwithstanding the  
2 provisions of subdivision two of section eight of this chapter, work  
3 done by special order under this section may be advertised solely  
4 through the regular public notification service of the office of general  
5 services. At least five days shall elapse between the first publication  
6 of such public notice and the date so specified for the public opening  
7 of bids. All payments on special orders shall be made on the certificate  
8 of the commissioner of general services and audited and approved by the  
9 state comptroller. All special orders shall contain a clause that the  
10 special order shall only be deemed executory to the extent of the moneys  
11 available and no liability shall be incurred by the state beyond the  
12 moneys available for the purpose.

13 § 3. Subdivision 1 of section 137 of the state finance law, as sepa-  
14 rately amended by section 17 of part MM of chapter 57 and chapter 619 of  
15 the laws of 2008, is amended to read as follows:

16 1. In addition to other bond or bonds, if any, required by law for the  
17 completion of a work specified in a contract for the prosecution of a  
18 public improvement for the state of New York a municipal corporation, a  
19 public benefit corporation or a commission appointed pursuant to law, or  
20 in the absence of any such requirement, the comptroller may or the other  
21 appropriate official, respectively, shall nevertheless require prior to  
22 the approval of any such contract a bond guaranteeing prompt payment of  
23 moneys due to all persons furnishing labor or materials to the contrac-  
24 tor or any subcontractors in the prosecution of the work provided for in  
25 such contract. Whenever a municipal corporation issues a permit subject  
26 to compliance with section two hundred twenty of the labor law, such  
27 permittee or its contractor or subcontractors furnishing workers shall  
28 post a payment bond subject to this section. Provided, however, that all  
29 performance bonds and payment bonds may, at the discretion of the head  
30 of the state agency, public benefit corporation or commission, or his or  
31 her designee, be dispensed with for the completion of a work specified  
32 in a contract for the prosecution of a public improvement for the state  
33 of New York for which bids are solicited [~~where the aggregate amount of~~  
34 ~~the contract is under one hundred thousand dollars and provided further,~~  
35 ~~that in a case where~~], for all contracts, whether the contract is or is  
36 not subject to the multiple contract award requirements of section one  
37 hundred thirty-five of this article, such requirements may be dispensed  
38 with where the head of the state agency, public benefit corporation or  
39 commission finds it to be in the public interest and where the aggregate  
40 amount of the contract awarded or to be awarded is less than two hundred  
41 thousand dollars. Provided further, that in a case where a performance  
42 or payment bond is dispensed with, twenty per centum may be retained  
43 from each progress payment or estimate until the entire contract work  
44 has been completed and accepted, at which time the head of the state  
45 agency, public benefit corporation or commission shall, pending the  
46 payment of the final estimate, pay not to exceed seventy-five per centum  
47 of the amount of the retained percentage.

48 § 4. This act shall take effect immediately.