

Performance Bonds and Municipal Debt

Prime Sponsor: Senator Eichelberger

Senate Bill 344 of the 2015-2016 Session (Passed Senate 50-0 on September 28, 2016)

Previous Cosponsors: Eichelberger, Teplitz, Vulakovich, Vance, Schwank, Folmer, Boscola, Rafferty, Browne and Blake

We plan to re-introduce legislation to address another important issue raised in the 2012 Local Government Committee hearings on the incinerator project which played a major role in Harrisburg's fiscal distress.

One fact remained absolute throughout the hearings: if the Public Works Contractors' Bond Law of 1967 had worked as intended, Harrisburg would have avoided hundreds of millions in unsustainable debt. The Bond Law is intended to provide security to local governments equal to the contract amount to avoid financial disaster if the project goes bad. In the Harrisburg case, attorneys used "loophole" language in the Law to advise the City to agree to a "security package," which in fact provided no security whatsoever.

The legislation, which was Senate Bill 344 last session, would close the loophole by eliminating these alternative security instruments which do not adequately protect the taxpayers. The amendment to the Bond Law would clarify that security for all levels of governments equal to the contract amount must be provided in the form of a performance bond, payment bond (for supply of materials), irrevocable letters of credit, or an escrow account.