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H.B. No. 1477

A BILL TO BE ENTITLED

AN ACT

relating to performance and payment bonds for public work contracts
on public property leased to a nongovernmental entity.

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

SECTION 1. Sections 2253.001(3) and (4), Government Code,
are amended to read as follows:

(3) "Prime contractor" means a person, firm, or
corporation that makes a public work contract with:

(A) a governmental entity; or

(B) a person who leases any public property,
other than a person who leases property from a river authority
created pursuant to Section 59, Article XVI, Texas Constitution,
that owns electric generation capacity in excess of 1,000
megawatts.

(4) "Public work contract" means a contract for
constructing, altering, or repairing a public building or carrying
out or completing any public work, including work performed on
property owned by a governmental entity or on public property
leased by the governmental entity to a nongovernmental entity.

"Public work contract" does not include any contract entered into
by a nongovernmental entity that leases property from a river
authority created pursuant to Section 59, Article XVI, Texas
Constitution, that owns electric generation capacity in excess of
1,000 megawatts.

1 SECTION 2. Section 2253.021(a), Government Code, is amended
2 to read as follows:

3 (a) A governmental entity that makes a public work contract
4 with a prime contractor or authorizes a nongovernmental entity
5 leasing public property from the governmental entity to enter into
6 a public work contract with a prime contractor shall require the
7 contractor, before beginning the work, to execute to the
8 governmental entity:

9 (1) a performance bond if the contract is in excess of
10 \$100,000; and

11 (2) a payment bond if:

12 (A) the contract is in excess of \$25,000, and the
13 governmental entity is not a municipality or a joint board created
14 under Subchapter D, Chapter 22, Transportation Code; or

15 (B) the contract is in excess of \$50,000, and the
16 governmental entity is a municipality or a joint board created
17 under Subchapter D, Chapter 22, Transportation Code.

18 SECTION 3. Sections 2253.024(a) and (b), Government Code,
19 are amended to read as follows:

20 (a) A prime contractor, on the written request of a person
21 who provides public work labor or material and when required by
22 Subsection (c), shall provide to the person:

23 (1) the name and last known address of the
24 governmental entity or nongovernmental leasehold tenant with whom
25 the prime contractor contracted for the public work;

26 (2) a copy of the payment and performance bonds for the
27 public work, including bonds furnished by or to the prime

1 contractor; and

2 (3) the name of the surety issuing the payment bond and
3 the performance bond and the toll-free telephone number maintained
4 by the Texas Department of Insurance under Subchapter B, Chapter
5 521, Insurance Code, for obtaining information concerning licensed
6 insurance companies.

7 (b) A subcontractor, on the written request of a
8 governmental entity, a nongovernmental leasehold tenant with whom
9 the prime contractor contracted, the prime contractor, a surety on
10 a bond that covers the public work contract, or a person providing
11 work under the subcontract and when required by Subsection (c),
12 shall provide to the person requesting the information:

13 (1) the name and last known address of each person from
14 whom the subcontractor purchased public work labor or material,
15 other than public work material from the subcontractor's inventory;

16 (2) the name and last known address of each person to
17 whom the subcontractor provided public work labor or material;

18 (3) a statement of whether the subcontractor furnished
19 a bond for the benefit of its subcontractors and materialmen;

20 (4) the name and last known address of the surety on
21 the bond the subcontractor furnished; and

22 (5) a copy of that bond.

23 SECTION 4. Section 2253.071(a), Government Code, is amended
24 to read as follows:

25 (a) The proceeds of a public work contract are not payable,
26 until all costs of completion of the contract work are paid by the
27 contractor or the contractor's surety, to a contractor who

1 furnishes a bond required by this chapter if:

2 (1) the contractor abandons performance of the
3 contract; or

4 (2) the contractor's right to proceed with performance
5 of the contract is lawfully terminated by the awarding governmental
6 entity or nongovernmental entity leasing public property from the
7 governmental entity because of the contractor's default.

8 SECTION 5. The changes in law made by this Act apply only to
9 a public work contract or construction project for which a
10 governmental entity or a nongovernmental entity leasing public
11 property from the governmental entity first advertises or otherwise
12 requests bids, proposals, offers, or qualifications, or makes a
13 similar solicitation, on or after the effective date of this Act.

14 SECTION 6. This Act takes effect September 1, 2021.