

By: Bell of Kaufman

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.

(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.

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

(a) A governmental entity that makes a public work contract with a prime contractor or authorizes a nongovernmental entity leasing public property from the governmental entity to contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:

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

1 (2) a payment bond if:

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

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

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

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

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

16 (2) a copy of the payment and performance bonds for the
17 public work, including bonds furnished by or to the prime
18 contractor; and

19 (3) the name of the surety issuing the payment bond and
20 the performance bond and the toll-free telephone number maintained
21 by the Texas Department of Insurance under Subchapter B, Chapter
22 521, Insurance Code, for obtaining information concerning licensed
23 insurance companies.

24 (b) A subcontractor, on the written request of a
25 governmental entity, a nongovernmental leasehold tenant with whom
26 the prime contractor contracted, the prime contractor, a surety on
27 a bond that covers the public work contract, or a person providing

1 work under the subcontract and when required by Subsection (c),
2 shall provide to the person requesting the information:

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

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

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

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

12 (5) a copy of that bond.

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

15 (a) The proceeds of a public work contract are not payable,
16 until all costs of completion of the contract work are paid by the
17 contractor or the contractor's surety, to a contractor who
18 furnishes a bond required by this chapter if:

19 (1) the contractor abandons performance of the
20 contract; or

21 (2) the contractor's right to proceed with performance
22 of the contract is lawfully terminated by the awarding governmental
23 entity or nongovernmental entity leasing public property from the
24 governmental entity because of the contractor's default.

25 SECTION 5. The changes in law made by this Act apply only to
26 a public work contract or construction project for which a
27 governmental entity or a nongovernmental entity leasing public

1 property from the governmental entity first advertises or otherwise
2 requests bids, proposals, offers, or qualifications, or makes a
3 similar solicitation, on or after the effective date of this Act.

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