

AN ACT

relating to limitations on the use of workers' compensation insurance experience modifier values in soliciting and awarding public construction contracts.

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

SECTION 1. Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.909 to read as follows:

Sec. 2252.909. VOIDABLE CONTRACT PROVISION: EXPERIENCE MODIFIER. (a) In this section:

(1) "Contract" means a contract awarded by a governmental entity that is:

(A) a construction contract, as defined by Section 272.0001, Business & Commerce Code; or

(B) a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(2) "Contract solicitation" means a request for bids, proposals, qualifications, offers, or other responses from potential contractors under a contract.

(3) "Experience modifier" means a factor expressed as a value that:

(A) is assigned to an employer seeking to purchase a workers' compensation insurance policy in this state;

(B) affects the premium amount for the policy;

1 and

2 (C) is based on the employer's past loss
3 experience.

4 (4) "Governmental entity" means:

5 (A) a department, commission, board, office, or
6 other agency in the executive branch of state government created by
7 the state constitution or a state statute, including an institution
8 of higher education as defined by Section 61.003, Education Code;
9 or

10 (B) a political subdivision of this state,
11 including a municipality, county, or special purpose district.

12 (b) With respect to a contract:

13 (1) an offer to contract may not contain a term
14 requiring a person to have a specified experience modifier in order
15 to accept the offer; and

16 (2) a contract solicitation may not require a person
17 to have a specified experience modifier in order to submit a
18 response to the contract solicitation.

19 (c) A contract or an agreement collateral to or affecting a
20 contract may not require the contractor to have a specified
21 experience modifier.

22 (d) A contract solicitation, an offer, a contract, or an
23 agreement collateral to or affecting a contract that violates
24 Subsection (b) or (c) is voidable as against public policy.

25 SECTION 2. Section 2252.909, Government Code, as added by
26 this Act, applies only to a contract for which a governmental entity
27 first advertises or otherwise solicits offers on or after the

1 effective date of this Act. A contract for which a governmental
2 entity first advertised or otherwise solicited offers before the
3 effective date of this Act is governed by the law in effect on the
4 date the governmental entity first advertised or otherwise
5 solicited offers, and that law is continued in effect for that
6 purpose.

7 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 679 was passed by the House on April 25, 2023, by the following vote: Yeas 141, Nays 5, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 679 on May 19, 2023, by the following vote: Yeas 133, Nays 8, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 679 was passed by the Senate, with amendments, on May 17, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor