

By: Bell of Kaufman, Leach, Patterson, Cook

H.B. No. 3485

Substitute the following for H.B. No. 3485:

By: Vasut

C.S.H.B. No. 3485

A BILL TO BE ENTITLED

AN ACT

relating to a contractor's or subcontractor's right to elect not to proceed with additional work under a contract.

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

SECTION 1. Subchapter D, Chapter 2251, Government Code, is amended by adding Section 2251.0521 to read as follows:

Sec. 2251.0521. UNSIGNED CHANGE ORDER. (a) In this section:

(1) "Public work contract" has the meaning assigned by Section 2253.001.

(2) "Subcontract" means a contract between a subcontractor and a vendor who is providing services under a public work contract.

(b) A vendor may elect not to proceed with additional work directed by a governmental entity under a public work contract if:

(1) the vendor has not received a written, fully executed change order for the governmental entity-directed additional work; and

(2) the aggregate actual or anticipated value of the additional work under the vendor's contract terms plus any previous governmental entity-directed additional work for which the vendor has not received a written, fully executed change order exceeds 10 percent of the vendor's original public work contract amount.

(c) A subcontractor may elect not to proceed with additional

1 work directed by a vendor under a subcontract if:

2 (1) the subcontractor has not received a written,
3 fully executed change order for the governmental entity-directed
4 additional work from the vendor; and

5 (2) the aggregate actual or anticipated value of the
6 additional work under the subcontractor's subcontract terms plus
7 any previous governmental entity-directed additional work for
8 which the subcontractor has not received a written, fully executed
9 change order exceeds 10 percent of the subcontractor's subcontract
10 amount.

11 (d) A vendor or subcontractor who elects not to proceed with
12 additional work as provided by this section is not responsible for
13 damages associated with the election not to proceed.

14 SECTION 2. Chapter 28, Property Code, is amended by adding
15 Section 28.0091 to read as follows:

16 Sec. 28.0091. UNSIGNED CHANGE ORDER. (a) A contractor or
17 subcontractor may elect not to proceed with additional work
18 directed by an owner if:

19 (1) the contractor or subcontractor has not received a
20 written, fully executed change order for the owner-directed
21 additional work; and

22 (2) the aggregate actual or anticipated value of the
23 additional work plus any previous owner-directed additional work
24 for which the contractor or subcontractor has not received a
25 written, fully executed change order exceeds 10 percent of the
26 contractor's or subcontractor's original contract amount.

27 (b) A contractor or subcontractor who elects not to proceed

1 with additional work as provided by this section is not responsible
2 for damages associated with the election not to proceed.

3 SECTION 3. Section 2251.0521, Government Code, and Section
4 28.0091, Property Code, as added by this Act, apply only to a
5 contract entered into on or after the effective date of this Act.

6 SECTION 4. This Act takes effect September 1, 2023.