

1-1 By: Bell of Kaufman, et al. H.B. No. 3485
 1-2 (Senate Sponsor - Johnson)
 1-3 (In the Senate - Received from the House May 9, 2023;
 1-4 May 10, 2023, read first time and referred to Committee on Business
 1-5 & Commerce; May 17, 2023, reported favorably by the following vote:
 1-6 Yeas 9, Nays 0; May 17, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to a contractor's or subcontractor's right to elect not to
 1-23 proceed with additional work under a contract.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter D, Chapter 2251, Government Code, is
 1-26 amended by adding Section 2251.0521 to read as follows:

1-27 Sec. 2251.0521. UNSIGNED CHANGE ORDER. (a) In this
 1-28 section:

1-29 (1) "Public work contract" has the meaning assigned by
 1-30 Section 2253.001.

1-31 (2) "Subcontract" means a contract between a
 1-32 subcontractor and a vendor who is providing services under a public
 1-33 work contract.

1-34 (b) A vendor may elect not to proceed with additional work
 1-35 directed by a governmental entity under a public work contract if:

1-36 (1) the vendor has not received a written, fully
 1-37 executed change order for the governmental entity-directed
 1-38 additional work; and

1-39 (2) the aggregate actual or anticipated value of the
 1-40 additional work under the vendor's contract terms plus any previous
 1-41 governmental entity-directed additional work for which the vendor
 1-42 has not received a written, fully executed change order exceeds 10
 1-43 percent of the vendor's original public work contract amount.

1-44 (c) A subcontractor may elect not to proceed with additional
 1-45 work directed by a vendor under a subcontract if:

1-46 (1) the subcontractor has not received a written,
 1-47 fully executed change order for the governmental entity-directed
 1-48 additional work from the vendor; and

1-49 (2) the aggregate actual or anticipated value of the
 1-50 additional work under the subcontractor's subcontract terms plus
 1-51 any previous governmental entity-directed additional work for
 1-52 which the subcontractor has not received a written, fully executed
 1-53 change order exceeds 10 percent of the subcontractor's subcontract
 1-54 amount.

1-55 (d) A vendor or subcontractor who elects not to proceed with
 1-56 additional work as provided by this section is not responsible for
 1-57 damages associated with the election not to proceed.

1-58 SECTION 2. Chapter 28, Property Code, is amended by adding
 1-59 Section 28.0091 to read as follows:

1-60 Sec. 28.0091. UNSIGNED CHANGE ORDER. (a) A contractor or
 1-61 subcontractor may elect not to proceed with additional work

2-1 directed by an owner if:

2-2 (1) the contractor or subcontractor has not received a
2-3 written, fully executed change order for the owner-directed
2-4 additional work; and

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

2-10 (b) A contractor or subcontractor who elects not to proceed
2-11 with additional work as provided by this section is not responsible
2-12 for damages associated with the election not to proceed.

2-13 SECTION 3. Section 2251.0521, Government Code, and Section
2-14 28.0091, Property Code, as added by this Act, apply only to a
2-15 contract entered into on or after the effective date of this Act.

2-16 SECTION 4. This Act takes effect September 1, 2023.

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