

Amend CSHB 2397 as follows:

(1) On page 2, strike SECTION 3 and renumber subsequent SECTIONS appropriately.

(2) On page 3, beginning on line 24, strike all of Section 2251.052 and insert the following:

Sec. 2251.052. SUBCONTRACTOR REMEDY FOR VENDOR'S NONPAYMENT OF CONTRACT. (a) A subcontractor of a vendor under a contract with a governmental entity may suspend performance required under the contract with the vendor if:

(1) the governmental entity with whom the subcontractor's vendor has a contract does not pay the vendor an undisputed amount within the time limits provided by Subchapter B; or

(2) the governmental entity with whom the subcontractor's vendor has a contract has paid the vendor undisputed amounts and the vendor does not pay the subcontractor an undisputed amount within the time limits provided by Subchapter B.

(b) A subcontractor who suspends performance under subsection (a) must give the vendor written notice, a copy of which the subcontractor may provide the governmental entity with whom the vendor has a contract,:

(A) informing the vendor that payment has not been received; and

(B) stating the intent of the subcontractor to suspend performance for nonpayment.

(c) The subcontractor may not suspend performance under this section before the later of:

(1) the 10th day after the date the subcontractor gives notice under Subsection (b); or

(2) the date specified by Section 2251.053(b), if applicable.

(d) A subcontractor who suspends performance under this section is not:

(1) required to supply further labor, services, or materials until the subcontractor is paid the amount provided for under the contract, plus costs for demobilization and remobilization; or

(2) responsible for damages resulting from suspending work if the vendor has not notified the subcontractor in writing before performance is suspended that payment has been made or the governmental entity has notified the vendor that a bona fide dispute for payment exists.

(e) A notification under Subsection (d)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the subcontractor are not provided in compliance with the contract, the subcontractor is entitled to a reasonable opportunity to:

(1) cure the noncompliance of the listed items; or

(2) offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

(3) On page 5, line 11, strike "HIGHWAY" and substitute "HIGHWAY-RELATED".

(4) On page 5 line 13, between "construction" and "of", insert "or maintenance".

(5) On page 5, line 13, between "highway" and the period, insert "or a related facility"

(6) On page 5, line 23, strike "or personally delivered"