

1-1 By: Bell of Kaufman, et al. H.B. No. 679
 1-2 (Senate Sponsor - Schwertner)
 1-3 (In the Senate - Received from the House April 26, 2023;
 1-4 April 27, 2023, read first time and referred to Committee on
 1-5 Business & Commerce; May 11, 2023, reported adversely, with
 1-6 favorable Committee Substitute by the following vote: Yeas 11,
 1-7 Nays 0; May 11, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
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	X			

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 679 By: Nichols

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to limitations on the use of workers' compensation
 1-25 insurance experience modifier values in soliciting and awarding
 1-26 public construction contracts.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subchapter Z, Chapter 2252, Government Code, is
 1-29 amended by adding Section 2252.909 to read as follows:

1-30 Sec. 2252.909. VOIDABLE CONTRACT PROVISION: EXPERIENCE
 1-31 MODIFIER. (a) In this section:

1-32 (1) "Contract" means a contract awarded by a
 1-33 governmental entity that is:

1-34 (A) a construction contract, as defined by
 1-35 Section 272.0001, Business & Commerce Code; or

1-36 (B) a contract for constructing, altering, or
 1-37 repairing a public building or carrying out or completing any
 1-38 public work.

1-39 (2) "Contract solicitation" means a request for bids,
 1-40 proposals, qualifications, offers, or other responses from
 1-41 potential contractors under a contract.

1-42 (3) "Experience modifier" means a factor expressed as
 1-43 a value that:

1-44 (A) is assigned to an employer seeking to
 1-45 purchase a workers' compensation insurance policy in this state;

1-46 (B) affects the premium amount for the policy;
 1-47 and

1-48 (C) is based on the employer's past loss
 1-49 experience.

1-50 (4) "Governmental entity" means:

1-51 (A) a department, commission, board, office, or
 1-52 other agency in the executive branch of state government created by
 1-53 the state constitution or a state statute, including an institution
 1-54 of higher education as defined by Section 61.003, Education Code;
 1-55 or

1-56 (B) a political subdivision of this state,
 1-57 including a municipality, county, or special purpose district.

1-58 (b) With respect to a contract:

1-59 (1) an offer to contract may not contain a term
 1-60 requiring a person to have a specified experience modifier in order

2-1 to accept the offer; and

2-2 (2) a contract solicitation may not require a person
2-3 to have a specified experience modifier in order to submit a
2-4 response to the contract solicitation.

2-5 (c) A contract or an agreement collateral to or affecting a
2-6 contract may not require the contractor to have a specified
2-7 experience modifier.

2-8 (d) A contract solicitation, an offer, a contract, or an
2-9 agreement collateral to or affecting a contract that violates
2-10 Subsection (b) or (c) is voidable as against public policy.

2-11 SECTION 2. Section 2252.909, Government Code, as added by
2-12 this Act, applies only to a contract for which a governmental entity
2-13 first advertises or otherwise solicits offers on or after the
2-14 effective date of this Act. A contract for which a governmental
2-15 entity first advertised or otherwise solicited offers before the
2-16 effective date of this Act is governed by the law in effect on the
2-17 date the governmental entity first advertised or otherwise
2-18 solicited offers, and that law is continued in effect for that
2-19 purpose.

2-20 SECTION 3. This Act takes effect September 1, 2023.

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