

1-1 By: Bell of Kaufman, et al. H.B. No. 2518
 1-2 (Senate Sponsor - Nichols)
 1-3 (In the Senate - Received from the House May 1, 2023;
 1-4 May 2, 2023, read first time and referred to Committee on Business
 1-5 & Commerce; May 12, 2023, reported favorably by the following vote:
 1-6 Yeas 11, Nays 0; May 12, 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 required lease terms for public property leased to a
 1-23 nongovernmental entity; creating a criminal offense.

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

1-25 SECTION 1. Subchapter Z, Chapter 2252, Government Code, is
 1-26 amended by adding Section 2252.909 to read as follows:

1-27 Sec. 2252.909. REQUIRED LEASE TERMS FOR LEASE OF PUBLIC
 1-28 PROPERTY. (a) In this section, "governmental entity" has the
 1-29 meaning assigned by Section 2253.001.

1-30 (b) A lease between a governmental entity and another person
 1-31 regarding public property must contain lease terms requiring the
 1-32 person to:

1-33 (1) include in each contract for the construction,
 1-34 alteration, or repair of an improvement to the leased property a
 1-35 condition that the contractor:

1-36 (A) execute a payment bond that conforms to
 1-37 Subchapter I, Chapter 53, Property Code; and

1-38 (B) execute a performance bond in an amount equal
 1-39 to the amount of the contract for the protection of the governmental
 1-40 entity and conditioned on the faithful performance of the
 1-41 contractor's work in accordance with the plans, specifications, and
 1-42 contract documents; and

1-43 (2) provide to the governmental entity a notice of
 1-44 commencement consistent with this section at least 90 days before
 1-45 the date the construction, alteration, or repair of any improvement
 1-46 to the leased property begins.

1-47 (c) A notice of commencement under Subsection (b) must:

1-48 (1) identify the public property where the work will
 1-49 be performed;

1-50 (2) describe the work to be performed;

1-51 (3) state the total cost of the work to be performed;

1-52 (4) include copies of the performance and payment
 1-53 bonds required under Subsection (b); and

1-54 (5) include a written acknowledgment signed by the
 1-55 contractor stating that copies of the required performance and
 1-56 payment bonds will be provided to all subcontractors not later than
 1-57 the fifth day after the date a subcontract is executed.

1-58 (d) On or before the 10th day after the date a governmental
 1-59 entity receives a notice of commencement for the construction,
 1-60 alteration, or repair of an improvement to leased property required
 1-61 under Subsection (b)(2), the governmental entity may notify the

2-1 leaseholder that the construction, alteration, or repair may not
2-2 proceed.

2-3 (e) A person commits an offense if the person materially
2-4 misrepresents information in a notice of commencement. An offense
2-5 under this subsection is a Class A misdemeanor.

2-6 SECTION 2. Section 2253.027, Government Code, is amended by
2-7 amending Subsection (a) and adding Subsection (c) to read as
2-8 follows:

2-9 (a) If a governmental entity fails to obtain from a prime
2-10 contractor a payment bond as required by Section 2253.021 or fails
2-11 to include in a lease the lease terms required by Section 2252.909:

2-12 (1) the entity is subject to the same liability that a
2-13 surety would have if the surety had issued a payment bond and if the
2-14 entity had obtained the bond; and

2-15 (2) a payment bond beneficiary is entitled to a lien on
2-16 money due to the prime contractor in the same manner and to the same
2-17 extent as if the public work contract were subject to Subchapter J,
2-18 Chapter 53, Property Code.

2-19 (c) A governmental entity is not liable as a surety under
2-20 Subsection (a)(1) if a person leasing property from the entity
2-21 fails to submit to the entity the notice of commencement required by
2-22 Section 2252.909.

2-23 SECTION 3. The changes in law made by this Act apply only to
2-24 a lease for public property entered into or renewed by a
2-25 governmental entity on or after the effective date of this Act.

2-26 SECTION 4. This Act takes effect September 1, 2023.

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