

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2446

BY: WILLIAMS

AS INTRODUCED

AN ACT RELATING TO STATE CONTRACTS; AMENDING 61 O.S. 1991, SECTION 122, WHICH RELATES TO CERTAIN SUITS; PROVIDING FOR CERTAIN STAYS; PROVIDING PROCEDURES AND AUTHORIZATION FOR CERTAIN CAUSES OF ACTION; PROVIDING FOR APPEALS; PROVIDING PROCEDURE; PROVIDING FOR PREVAILING PARTY; PROVIDING FOR DISQUALIFICATION; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 61 O.S. 1991, Section 122, is amended to read as follows:

Section 122. A. Any taxpayer of the State of Oklahoma, or any bona fide unsuccessful bidder on a particular public construction contract, within ten (10) days after any such contract has been executed, is empowered to bring suit in the district court of the county where the work, or the major part of it, is to be done to enjoin the performance of such contract if entered into in violation of the provisions of this act otherwise an appeal will not stay the performance of a contract.

B. Any unsuccessful bidder who appeals the award of a contract and successfully enjoins the performance on the contract will be disqualified from bidding on any remedial contract awarded by the agency to offset any conditions created by the delay caused by the appeal.

C. Upon recommendation of the Administrative Law Judge or Hearing Examiner, the Director of the Office of Public Affairs may require payment by the unsuccessful bidder of reasonable attorney fees if the state is the prevailing party and the appeal was without reasonable basis or was frivolous.

D. An appeal of the Director's decision to pay attorney fees may be filed in accordance with the Administrative Procedures Act within thirty (30) days of the issue date of the Director's decision.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.61 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any taxpayer of the State of Oklahoma, or any bona fide unsuccessful bidder on a State contract pursuant to the Central Purchasing Act, within ten (10) days after such contract has been executed, may request a stay of the contract to the Director of Central Purchasing to enjoin the performance of such contract if entered into in violation of the provisions of this act, otherwise an appeal will not stay the performance of the contract.

B. Any unsuccessful bidder who appeals the award of a contract and successfully enjoins the performance on the contract will be disqualified from bidding on any remedial contract awarded by the agency to offset any conditions created by the delay caused by the appeal.

C. Upon recommendation of the Administrative Law Judge or Hearing Examiner, the Director of the Office of Public Affairs may require payment by the unsuccessful bidder of reasonable attorney

fees if the state is the prevailing party and the appeal was without reasonable basis or was frivolous.

D. An appeal of the Director's decision to pay attorney fees may be filed in accordance with the Administrative Procedures Act within thirty (30) days of the issue date of the Director's decision.

SECTION 3. This act shall become effective September 1, 1992.

43-2-7182            KSM