

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2181

By: Fields

COMMITTEE SUBSTITUTE

An Act relating to county contracts; providing for certain construction contracts; requiring certain contents; amending 61 O.S. 1991, Section 113.1, which relates to public construction contracts; requiring amount retained shall be sufficient to ensure payment of specified items; adding to items required to be provided by a contractor under contract with the county showing lien waivers from certain subcontractors; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. Any public works contract shall provide for partial payment based upon work completed. The contract shall provide that up to ten percent (10%) of all such partial payments made shall be withheld as retainage. At any time the contractor has completed in excess of fifty percent (50%) of the total contract amount, the retainage shall be reduced to not less than five percent (5%) of the amount earned to date if the owner or owner's duly authorized representative has determined that satisfactory progress is being made, and upon approval by the surety. The amount retained shall be sufficient to ensure payment of:

1. Any taxes due the State of Oklahoma;
2. Personal property taxes or any municipal sales taxes due on the contractor's equipment and supplies;
3. Any workers compensation coverage; and
4. Any amount due and owing to any subcontractor who furnished any material or equipment to the contractor or performed

any labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor.

B. For purposes of this section a public works contract means a contract between a county of this state and a contractor for the construction, alteration, repair, improvement, moving, wrecking or demolition of any highway, road, railroad, earthwork, building or other structure, project, development or improvement, whether it be in whole or in part.

SECTION 2. AMENDATORY 61 O.S. 1991, Section 113.1, is amended to read as follows:

Section 113.1 A. A public construction contract shall provide for partial payment based upon work completed. The contract shall provide that up to ten percent (10%) of all such partial payments made shall be withheld as retainage. At any time the contractor has completed in excess of fifty percent (50%) of the total contract amount, the retainage shall be reduced to not less than five percent (5%) of the amount earned to date if the owner or owner's duly authorized representative has determined that satisfactory progress is being made, and upon approval by the surety. The amount retained shall be sufficient to ensure payment of:

1. Any taxes due the State of Oklahoma;
2. Personal property taxes or any municipal sales taxes due on the contractor's equipment and supplies;
3. Any workers compensation coverage; and
4. Any amount due and owing to any subcontractor who furnished any material or equipment to the contractor or performed any labor as a subcontractor, or as an artisan or day laborer in the employ of the contractor.

B. The Department of Transportation may prescribe its own policy and procedures for retainage on public construction contracts awarded by said Department.

SECTION 3. This act shall become effective September 1, 1994.

44-2-8803 KSM