

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2181

By: Fields

AS INTRODUCED

An Act relating to public contracts; 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; amending 69 O.S. 1991, Section 1103, which relates to contracts of the Department of Transportation; adding to items required to be provided by a contractor under contract with the Department showing lien waivers from certain subcontractors; and providing an effective date.

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

SECTION 1. 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 2. AMENDATORY 69 O.S. 1991, Section 1103, is amended to read as follows:

Section 1103. A. As a portion of the retainage held by the Commission pursuant to Section 113.1 of Title 61 of the Oklahoma Statutes, the Commission shall retain not less than five percent (5%) of the total amount of money due under contract with the Commission for construction, maintenance or repair of state, county or municipal highways or streets until the contractor to whom payment is due files with the Commission ~~documentation:~~

1. Documentation from the Oklahoma Tax Commission that all income taxes, sales and use taxes, motor fuel taxes, motor vehicle taxes, and any other taxes due the State of Oklahoma have been paid or will be paid when due, ~~and~~;

2. A certified copy of a personal tax receipt, showing payment of personal property taxes due on the contractor's equipment and supplies, from the county treasurer of the county wherein the property is assessed, or is required to be assessed, ~~and evidence;~~

3. Evidence of having proper workers' compensation coverage for employees as provided by Title 85 of the Oklahoma Statutes, Section 61; and

4. Evidence of any lien waivers necessary to ensure payment of any subcontractor who furnished any material or equipment to the contractor or performed any labor as a subcontractor for or as an artisan or day laborer in the employ of the contractor.

B. In the alternative, the Commission may accept, in lieu of retainage held for the purpose of this section, a deposit of Treasury notes or bank certificates of deposit equal to five percent (5%) of the amount due under contract with the Commission, with proper assignment of same, until full compliance with the requirements of this section is established by the Commission.

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

44-2-7868

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