

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1695

By: Tyler

COMMITTEE SUBSTITUTE

An Act relating to transportation; amending 51 O.S. 2001, Section 24A.3, as last amended by Section 42, Chapter 3, O.S.L. 2003 (51 O.S. Supp. 2003, Section 24A.3), which relates to the Oklahoma Open Records Act; modifying certain definition; amending 61 O.S. 2001, Section 121, as amended by Section 22, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2003, Section 121), which relates to the Public Competitive Bidding Act of 1974; adding certain authorization for the Director of the Oklahoma Transportation Authority; repealing 69 O.S. 2001, Section 1705.3, which relates to coin-operated turnpike booths; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.3, as last amended by Section 42, Chapter 3, O.S.L. 2003 (51 O.S. Supp. 2003, Section 24A.3), is amended to read as follows:

Section 24A.3 Definitions. As used in this act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean computer software, nongovernment personal effects or, unless public disclosure is required by other laws or regulations,

vehicle movement records of the Oklahoma ~~Turnpike~~ Transportation Authority obtained in connection with the Authority's electronic toll collection system, personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body. "Record" does not mean any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority. "Record" does not mean any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at such facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park. "Record" does not mean a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

SECTION 2. AMENDATORY 61 O.S. 2001, Section 121, as amended by Section 22, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2003, Section 121), is amended to read as follows:

Section 121. A. Change orders or addenda to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

B. Change orders or addenda to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

C. Change orders or cumulative change orders which exceed the limits of subsection A or B of this section shall require a readvertising for bids on the incomplete portions of the contract.

D. If the awarding public agency does not have a governing body, the chief administrative officer of the awarding public agency shall approve change orders. The State Construction Administrator of the Construction and Properties Division of the Department of Central Services shall sign and execute all contracts and change orders, as they relate to state agencies.

E. If the awarding public agency has a governing body, all change orders shall be formally approved by the governing body of the awarding public agency and the reasons for approval recorded in the permanent records of the governing body.

F. The governing body of the Oklahoma Tourism and Recreation Department is authorized, upon approval of a majority of all of the members of the Oklahoma Tourism and Recreation Commission, to delegate to the Director of the agency the authority to approve change orders on a construction contract provided that the individual change order does not exceed Twenty-five Thousand Dollars (\$25,000.00) in expenditure and complies with the limits established by this section. The Administrator of the Division shall sign and execute all contracts and change orders.

G. The Transportation Commission may, by rule, authorize the Director of the Department of Transportation to approve change orders in an amount of not to exceed Five Hundred Thousand Dollars (\$500,000.00). Change orders approved by the Director shall be presented to the Transportation Commission during the next regular meeting and the reasons therefor recorded in the permanent records. The Oklahoma Transportation Authority may authorize the Director of the Authority to approve change orders in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). Change orders approved by the Director of the Authority shall be presented to the Oklahoma Transportation Authority during the next regular meeting and the reasons for the orders recorded in permanent records. All change orders for the Department of Transportation or the Oklahoma Transportation Authority shall contain a unit price and total for each of the following items:

1. All materials with cost per item;
2. Itemization of all labor with number of hours per operation and cost per hour;

3. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;

4. Itemization of insurance cost, bond cost, social security, taxes, workers' compensation, employee fringe benefits and overhead cost; and

5. Profit for the contractor.

H. 1. If a construction contract contains unit pricing, and the change order pertains to the unit price, the change order will not be subject to subsection A or B of this section.

2. When the unit price change does not exceed Ten Thousand Dollars (\$10,000.00), the unit price change order computation may be based on an acceptable unit price basis in lieu of cost itemization as required in paragraphs 1, 2, 3, 4 and 5 of subsection G of this section.

I. Alternates or add items bid with the original bid and contained in the awarded contract as options of the awarding public agency shall not be construed as change orders under the provisions of the Public Competitive Bidding Act of 1974.

SECTION 3. REPEALER 69 O.S. 2001, Section 1705.3, is hereby repealed.

SECTION 4. This act shall become effective July 1, 2004.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-2-8280 MD 02/04/04