

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 11, 2009

Committee Substitute for  
House Bill No. 1753

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1753 - By: MARTIN (SCOTT) of the House and BARRINGTON of the Senate.

An Act relating to public buildings and public works; amending 61 O.S. 2001, Section 121, as last amended by Section 23, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 121), which relates to the Public Competitive Bidding Act of 1974; modifying approval of change orders; and providing an effective date.

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

- 1           SECTION 1.    AMENDATORY    61 O.S. 2001, Section 121, as last amended by  
2    Section 23, Chapter 271, O.S.L. 2006 (61 O.S. Supp. 2008, Section 121), is amended to  
3    read as follows:
- 4           Section 121.  A.  Change orders or addenda to public construction contracts of One  
5    Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative  
6    increase in the original contract amount.
- 7           B.  Change orders or addenda to public construction contracts of over One Million  
8    Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand  
9    Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract  
10   amount.

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

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

9 E. If the awarding public agency has a governing body, all-change orders shall be  
10 formally approved by the governing body of the awarding public agency and the reasons  
11 for approval recorded in the permanent records of the governing body. The governing  
12 body of a municipality may delegate approval of change orders up to ten percent (10%) of  
13 any contract to the chief administrative officer of the municipality or their designee, with  
14 any approved change orders reported to the governing body at the next regularly  
15 scheduled meeting.

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

1 G. The Transportation Commission may, by rule, authorize the Director of the  
2 Department of Transportation to approve change orders in an amount of not to exceed  
3 Five Hundred Thousand Dollars (\$500,000.00). Change orders approved by the Director  
4 shall be presented to the Transportation Commission during the next regular meeting  
5 and the reasons therefor recorded in the permanent records. The Oklahoma Turnpike  
6 Authority may authorize the Director of the Authority to approve change orders in an  
7 amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). Change  
8 orders approved by the Director of the Authority shall be presented to the Authority  
9 during the next regular meeting and the reasons for the orders recorded in permanent  
10 records.

11 H. All change orders for the Department of Transportation or the Authority shall  
12 contain a unit price and total for each of the following items:

- 13 1. All materials with cost per item;
- 14 2. Itemization of all labor with number of hours per operation and cost per hour;
- 15 3. Itemization of all equipment with the type of equipment, number of each type,  
16 cost per hour for each type, and number of hours of actual operation for each type;
- 17 4. Itemization of insurance cost, bond cost, social security, taxes, workers'  
18 compensation, employee fringe benefits and overhead cost; and
- 19 5. Profit for the contractor.

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

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

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

8           SECTION 2. This act shall become effective November 1, 2009.

9           COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 02-  
10 10-09 - DO PASS, As Amended and Coauthored.