

1 **SENATE FLOOR VERSION**

2 February 21, 2013

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 519

6 By: Standridge and Newberry of
7 the Senate

8 and

9 McBride of the House

10 [contractors - employer identification numbers,
11 failure to give surety bond, and public bid
12 contractors - effective date -
13 emergency]

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1701.1, is
16 amended to read as follows:

17 Section 1701.1. A. All ~~resident and nonresident~~ contractors as
18 defined in Section 1701 of this title shall ~~have in their possession~~
19 be able to prove that they have current employer identification
20 numbers issued to them by the Oklahoma Tax Commission, the Oklahoma
21 Employment Security Commission, the Internal Revenue Service, and
22 the Social Security Administration, and a workers' compensation
23 policy. Any workers' compensation policy for a nonresident
24 contractor shall show "Oklahoma" or "All States" for Other States
Insurance on Section 3C of the policy. Each contractor shall be

1 responsible for maintaining his or her own payroll reports and
2 records including reports and records required by the Oklahoma Tax
3 Commission, the Oklahoma Employment Security Commission, the
4 Internal Revenue Service, and the Social Security Administration.
5 No contractor shall be required to keep payroll records or make any
6 other report for any other contractor.

7 B. Owners, lessees, or renters awarding a contract shall not be
8 required to ascertain if a contractor has complied with the
9 provisions of subsection A of this section or be responsible for a
10 contractor's reports, records, or be liable for any penalty
11 resulting from the contract.

12 C. Any contractor who violates or does not comply with the
13 provisions of subsection A of this section shall be liable for any
14 unpaid taxes and wages resulting from ~~his~~ the contract in addition
15 to the penalties provided in Section 1707 of ~~Title 68 of the~~
16 ~~Oklahoma Statutes~~ this title. The failure of a contractor to comply
17 with the provisions of subsection A of this section shall neither
18 present any liability or responsibility for any unpaid taxes, wages,
19 or penalties resulting from ~~his~~ the contract upon any other
20 contractor nor shall any future contracts of ~~said~~ the contractor be
21 impaired because of ~~his~~ a failure to comply with the provisions of
22 subsection A of this section on a prior contract.

23 D. Subsection A of this section shall not apply ~~where~~ if a
24 contract for an entire project requires the services of less than

1 three employees. A resident contractor shall not be required to
2 comply with the provisions of subsection A of this section in the
3 construction of a single family dwelling when the total cost of the
4 project is less than the average sales price of a single family
5 dwelling in this state as set each year by the National Association
6 of Home Builders. This subsection shall not be construed to exempt
7 any person of any tax liabilities or other requirements provided for
8 by law.

9 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1704, is
10 amended to read as follows:

11 Section 1704. Every contractor ~~failing to give notice as~~
12 ~~required by this article or to execute the~~ shall provide the
13 information required in subsection A of Section 1701.1 of this title
14 and shall provide proof of the executed bond herein provided
15 required by Section 1703 of this title if required, before beginning
16 ~~the performance of any such signing the contract, shall be denied~~
17 ~~the right to perform such contract until he complies with such~~
18 ~~requirement.~~ Any contractor failing to provide the required
19 information is subject to a fine imposed by the Oklahoma Tax
20 Commission in an amount not to exceed ten percent (10%) of the
21 contractor's total bid, which shall be in addition to any other
22 penalties allowed by law.

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1 SECTION 3. AMENDATORY Section 1, Chapter 351, O.S.L.
2 2012 (68 O.S. Supp. 2012, Section 1708), is amended to read as
3 follows:

4 Section 1708. A. All contractors ~~submitting a written bid as~~ as
5 defined in Section 1701 of this title signing any contract to
6 provide materials or labor on a public construction project ~~offered~~
7 ~~for bid~~ in this state shall, upon written request, show proof of
8 documentation required to be in their possession pursuant to Section
9 1701.1 of ~~Title 68 of the Oklahoma Statutes~~ this title.

10 B. Any contractor ~~that~~ who fails to provide proof as required
11 in subsection A of this section, or any contractor ~~that~~ who performs
12 work in this state as a ~~resident or nonresident~~ contractor without
13 registration as required by Section 1701.1 of ~~Title 68 of the~~
14 ~~Oklahoma Statutes~~ this title, shall be fined by the Oklahoma Tax
15 Commission an amount not to exceed ten percent (10%) of the
16 contractor's total bid, which shall be in addition to any other
17 penalties allowed by law.

18 C. Any contractor ~~that~~ who intentionally misclassifies
19 individuals as independent contractors rather than employees for the
20 purpose of affecting procedures and payments relating to withholding
21 and social security, unemployment tax or workers' compensation
22 premiums shall be fined by the Oklahoma Tax Commission an amount not
23 to exceed ten percent (10%) of the contractor's total bid, which
24 shall be in addition to any other penalties allowed by law.

1 SECTION 4. This act shall become effective July 1, 2013.

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

6 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
7 February 21, 2013 - DO PASS AS AMENDED
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