

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2305, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Pemberton

Pemberton-MG-FS-Req#2209
4/9/2019 2:48 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 2305

By: Frix of the House

and

Pemberton of the Senate

FLOOR SUBSTITUTE

An Act relating to public buildings and public works;
amending 61 O.S. 2011, Section 2, as amended by
Section 2, Chapter 241, O.S.L. 2012 (61 O.S. Supp.
2018, Section 2), which relates to filing of bonds;
providing for filing of claim; authorizing certain
action if prior claim has been filed; prohibiting
action on bond within certain period following
performance of labor; and providing an effective
date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 2, as
amended by Section 2, Chapter 241, O.S.L. 2012 (61 O.S. Supp. 2018,
Section 2), is amended to read as follows:

Section 2. A. Bonds shall be filed in the office of the
agency, institution, department, commission, municipality or
government instrumentality that is authorized by law and does enter
into contracts for the construction of public improvements or

1 buildings, or public or private improvements or buildings on a
2 public-private partnership project, or repairs to the same; and the
3 officer with whom the bond is filed shall furnish a copy thereof to
4 any person claiming any rights thereunder. Any person to whom there
5 is due any sum for labor, material or repair to machinery or
6 equipment, furnished as stated in Section 1 of this title, the heirs
7 or assigns of such person, may file a claim or bring an action on
8 the bond for the recovery of the indebtedness, provided that no
9 action shall be brought on the bond after one (1) year from the day
10 on which the last of the labor was performed or material or parts
11 furnished for which the claim is made unless a prior claim has been
12 filed within one (1) year from the day on which the labor was
13 performed or material or parts furnished, in which case, no action
14 shall be brought on the bond after two (2) years from the day on
15 which the last of the labor was performed or material or parts
16 furnished for which the claim is made.

17 B. Any person having direct contractual relationship with a
18 subcontractor, regardless of tier, performing work on the contract,
19 but no contractual relationship express or implied with the
20 contractor furnishing the payment bond, shall have a right of action
21 upon the payment bond only upon giving written notice to the
22 contractor and surety on the payment bond within ninety (90) days
23 from the date on which such person did or performed the last of the
24 labor or furnished or supplied the last of the material or parts for

1 which the claim is made, stating with substantial accuracy the
2 amount claimed and the name of the party to whom the material or
3 parts were furnished or supplied or for whom the labor was done or
4 performed. The notice shall be served by mailing the same by
5 registered or certified mail, postage prepaid, in an envelope
6 addressed to the contractor at any place the contractor maintains an
7 office or conducts business, together with a copy thereof to the
8 surety or sureties on the payment bond.

9 C. 1. The bond or irrevocable letter of credit issued to the
10 Department of Transportation or the Oklahoma Turnpike Authority,
11 pursuant to this section, shall also provide that the contractor
12 shall pay all state and local taxes accruing as a result of the
13 contract, any liquidated damages as provided by the contract and any
14 overpayment of progressive estimates resulting in a balance due and
15 owing the Department of Transportation or the Oklahoma Turnpike
16 Authority.

17 2. A claim against the bond or irrevocable letter of credit for
18 delinquent taxes shall be made by the public entity to which the tax
19 was payable. The claim shall be made within six (6) months from the
20 date on which the tax became delinquent. Notice of the delinquent
21 tax shall be sent by certified mail to the surety, and a copy of the
22 notice shall be sent to the contractor. Nothing in this paragraph
23 shall be construed to release, at any time, the contractor from
24 responsibility for full payment of all taxes.

1 3. A claim against the bond or irrevocable letter of credit for
2 overpayment on progressive estimates shall be made by the public
3 entity within one (1) year from the date of final acceptance of the
4 project. Notice of the overpayment shall be sent by certified mail
5 to the surety and a copy of the notice shall be sent to the
6 contractor. Nothing in this paragraph shall be construed as to
7 release, at any time, the contractor from the responsibility of
8 refunding any amount overpaid on progressive estimates which are due
9 and owing the Department of Transportation.

10 SECTION 2. This act shall become effective November 1, 2019.

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12 57-1-2209 MG 4/9/2019 2:48:45 PM
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