

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1520

By: Murdock of the Senate

and

West (Kevin) of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public buildings and public works;
12 amending 61 O.S. 2021, Sections 113.1 and 226, which
13 relate to the Public Competitive Bidding Act of 1974;
14 providing for partial payment; authorizing reduction
15 of certain retainage; and providing an effective
16 date.

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

18 SECTION 1. AMENDATORY 61 O.S. 2021, Section 113.1, is
19 amended to read as follows:

20 Section 113.1 A. A public construction contract shall provide
21 for partial payment based upon work completed. The contract shall
22 provide that up to five percent (5%) of all partial payments made
23 shall be withheld as retainage. At any time the contractor has
24 completed in excess of fifty percent (50%) of the total contract
 amount, the retainage shall be reduced to two and one-half percent

1 (2.5%) of the amount earned to date once the public agency has
2 determined that satisfactory progress is being made.

3 B. The Department of Transportation or the Oklahoma Turnpike
4 Authority shall not withhold retainage on public construction
5 contracts awarded by the Department or the Authority.

6 C. The Department of Transportation shall not withhold
7 retainage or require any bond on projects awarded to railroads on
8 the railroad's privately owned or operated rail property.

9 SECTION 2. AMENDATORY 61 O.S. 2021, Section 226, is
10 amended to read as follows:

11 Section 226. A. A public construction contract ~~may include a~~
12 ~~provision for the retainage of a portion of payment due. Such~~
13 ~~retainage is not to exceed five percent (5%) of the amount of the~~
14 ~~payment due. If a construction contract is subject to a bond~~
15 ~~pursuant to this title and when the work of the contractor has been~~
16 ~~determined by the holder to be at least fifty percent (50%)~~
17 ~~complete, and with respect to the balance of the work to be~~
18 ~~performed by the contractor, the retainage amount shall be two and~~
19 ~~one-half percent (2.5%) shall provide for partial payment based upon~~
20 work completed. The contract shall provide that up to five percent
21 (5%) of all partial payments made shall be withheld as retainage.
22 At any time the contractor has completed in excess of fifty percent
23 (50%) of the total contract amount, the retainage shall be reduced
24 to two and one-half percent (2.5%) of the amount earned to date once

1 the owner or owner's duly authorized representative has determined
2 that satisfactory progress is being made.

3 B. A subcontract shall include a provision for the retainage of
4 a portion of payment due. Such retainage shall not exceed five
5 percent (5%) of the amount of the payment due. ~~If a construction~~
6 ~~subcontract is subject to a bond pursuant to this title and when the~~
7 ~~work of the subcontractor has been determined by the holder to be at~~
8 ~~least fifty percent (50%) complete, and with respect to the balance~~
9 ~~of the work to be performed by the subcontractor, the retainage~~
10 ~~amount shall be two and one-half percent (2.5%)~~ When the work of the
11 subcontractor has been determined by the holder to be at least fifty
12 percent (50%) complete, the retainage shall be reduced to two and
13 one-half percent (2.5%) of the original contract amount.

14 C. No later than twenty-one (21) calendar days after a
15 certificate of substantial completion is issued for the project or
16 separate usable phase of the project and upon adequate performance
17 of the prime contractor and with approval of any applicable surety,
18 retainage shall be released by the owner to the prime contractor
19 less an amount no greater than one hundred fifty percent (150%) of
20 the estimated costs to correct any incomplete or defective work as
21 identified, itemized, and attached to the certificate of substantial
22 completion. All remaining funds shall be released as each
23 deficiency is satisfactorily completed. The prime contractor shall
24 release within ten (10) calendar days of receipt the share of those

1 funds that have been withheld from other entities. All other
2 entities shall release within seven (7) calendar days of receipt the
3 share of those funds that have been withheld from other entities.

4 SECTION 3. This act shall become effective November 1, 2022.
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6 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
7 04/14/2022 - DO PASS, As Amended.
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