

SENATE BILL NO. 111

BY SENATOR WOMACK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 38:2191(A), 2212(B)(2), 2222, and 2241.1(C) and to enact R.S. 38:2212(E)(8) and 2241.1(D), relative to public contracts; to provide for timely execution and approval of change orders; to provide for filing injunctions or mandamus suits involving bids; to provide awarding bids after judicial determinations of the lowest responsive and responsible bidder; to provide for payments under a contract; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2191(A), 2212(B)(2), 2222, and 2241.1(C) are hereby amended and reenacted and R.S. 38:2212(E)(8) and 2241.1(D) are hereby enacted to read as follows:

§2191. Payments under contract

A. All public entities shall promptly pay all obligations **including approved change orders**, arising under public contracts when the obligations become due and payable under the contract. All progressive stage payments and final payments shall be paid when they respectively become due and payable under the contract.

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§2212. Advertisement and letting to lowest responsive and responsive bidder; public work; electronic bidding; participation in mentor-protégé program; exemptions

\* \* \*

B. \* \* \*

(2) Any public entity advertising for public work shall use only the Louisiana Uniform Bid Form as promulgated in accordance with the Administrative Procedure Act by the division of administration, office of facility planning and control. The bidding documents shall require only the following information and documentation

1 to be submitted by a bidder at the time designated in the advertisement for bid  
 2 opening: Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid,  
 3 Alternates, Signature of Bidder, Name, Title, and Address of Bidder, Name of Firm  
 4 or Joint Venture, Corporate Resolution or written evidence of the authority of the  
 5 person signing the bid, and Louisiana Contractors License Number, and on public  
 6 works projects where unit prices are utilized, a section on the bid form where the unit  
 7 price utilized in the bid shall be set forth including a description for each unit;  
 8 however, unit prices shall not be utilized for the construction of building projects,  
 9 unless the unit prices and their extensions are incorporated into the base bid or  
 10 alternates. **Any timely change by a bidder to the bid prior to submission of the**  
 11 **bid shall be scratched through and initialed by the bidder or the person who**  
 12 **submits the bid. The change as initialed shall be binding.**

\* \* \*

E.(1)

\* \* \*

15 **(8) For the purpose of bids submitted electronically, the last timely bid**  
 16 **submission by each and any bidder shall be binding.**

\* \* \*

§2222. Change orders; recordation

19 **A.** Each change order to a public works contract or to a contract for materials  
 20 and supplies which adds an amount of ten percent or more of the original contract  
 21 amount and which additional amount is at least ten thousand dollars or all change  
 22 orders to a contract aggregating to an amount of twenty percent or more of the  
 23 original contract amount and which additional amount is at least ten thousand dollars  
 24 shall be recorded by the public entity which entered into the contract in the office of  
 25 the recorder of mortgages in the parish where the work is to be done or, if not a  
 26 public work, where the entity is domiciled not later than thirty days after the date of  
 27 the change order which requires that the recordation take place. In addition, the  
 28 original contract shall be recorded together with the change orders if not previously  
 29 recorded. The provisions of this Section shall not apply to the office of facility  
 30 planning and control, and the office of state procurement.

1 **B. Change orders shall be processed and issued by the public entity no**  
2 **later than forty days following final execution of the change order.**

3 \* \* \*

4 §2241.1. Acceptance of governing authority

5 \* \* \*

6 C. Any public entity that does not file for recordation an acceptance of public  
7 work, shall require the contractor to have recorded in the office of the recorder of  
8 mortgages, in the parish where the work has been done, an acceptance of such work  
9 or of any specified area of such work, not later than forty-five calendar days after the  
10 date of completion or substantial completion of the work. This acceptance shall not  
11 be executed except upon the recommendation of the design professional hired by the  
12 public entity whose recommendation ~~may~~ **shall** be made not later than thirty calendar  
13 days after the date of completion or substantial completion of such public work. **A**  
14 **public entity shall not take, use, or occupy the public work or use or occupy the**  
15 **specified area of the public work for which it was intended until the substantial**  
16 **completion has been filed pursuant to this Section, unless an approved**  
17 **agreement of partial occupancy is executed between the public entity, the design**  
18 **professional of record, and the contractor.**

19 **D. The public entity's failure to comply with the provisions of this**  
20 **Section shall be subject to a writ of mandamus.**

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_