

2023 Regular Session

SENATE BILL NO. 83

BY SENATOR WOMACK

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

PUBLIC CONTRACTS. Provides for certain change orders when certain unit prices are contained in the initial contract. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 38:2212(M)(5), relative to change orders; to provide for
3 documentation of change orders; to provide for exceptions related to unit price
4 change of change orders; to provide for new pricing change orders and redesign
5 change orders; to provide for contract limitations on change orders; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2212(M)(5) is hereby amended and reenacted to read as follows:

9 §2212. Advertisement and letting to lowest responsible and responsive bidder;
10 public work; electronic bidding; participation in mentor-protégé
11 program; exemptions; subpoena

12 * * *

13 M. * * *

14 (5) Any change order pertaining to public work, not required by this Part to
15 be let out for public bid, shall either be negotiated in the best interest of the public
16 entity or let out for public bid as provided by this Part. Where the change order is
17 negotiated, the public entity shall require that such change order be fully documented

1 and itemized as to costs, including material quantities, material costs, **equipment**
2 **used, labor,** taxes, insurance, employee benefits, other related costs, profit, and
3 overhead.

4 (a) Where certain unit prices are contained in the initial contract, no
5 deviations shall be allowed in computing negotiated change order costs **unless**
6 **specified in contract documents. When a unit price change order is required it**
7 **shall be submitted to the designer of record or in the absence of the designer,**
8 **the public entity, within thirty days from the date of discovery of the work to be**
9 **performed by the change order.**

10 (b) **Any change order requiring new pricing by the contractor shall be**
11 **submitted to the designer of record or in the absence of the designer, the public**
12 **entity, within thirty days from the date of discovery of the work to be performed**
13 **by the change order.**

14 (c) **For any change order requiring redesign, the redesign shall not take**
15 **more than ninety days from the date of notification by the contractor to the**
16 **designer of record or in the absence of the designer, the public entity, of the**
17 **discovery of work to be performed by the change order. Extensions of time may**
18 **be granted by the public entity if necessary for redesign. Once the redesign is**
19 **complete, the contractor shall submit the cost estimate to the designer of record**
20 **or in the absence of the designer, the public entity, for the change order within**
21 **forty-five days for the redesigned work under the change order.**

22 (d) **For any change order, the public entity shall have forty-five days**
23 **from the submittal of the change order to the public entity, to negotiate, and**
24 **approve or reject the contractor's proposed cost estimate of the work to be**
25 **performed by the change order. Extensions of time may be granted by mutual**
26 **agreement or shall be granted as necessary for the public entity to obtain**
27 **governmental approval. The contractor shall not be required to provide to the**
28 **public entity any schedule updates incorporating a change order until that**
29 **change order is executed unless the schedule is needed for evaluation of the**

proposed change order.

(e) Except where a public work does not exceed the contract limit as defined in this Section, the provisions of R.S. 38:2212(M) in regard to change orders shall not be waived by contract.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Archana D. Cadge.

DIGEST

SB 83 Engrossed

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Womack

Present law provides when a change order is negotiated, the public entity shall require that the change order be fully documented and itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit, and overhead.

Proposed law retains present law and adds equipment use and labor to fully documented itemized costs.

Present law provides where certain unit prices are contained in the initial contract, no deviations shall be allowed in computing the negotiated change order.

Proposed law provides exceptions to present law allowing unit price change orders submitted to the designer or public entity within 30 days from the date of discovery of the work to be performed by the change order, or change orders requiring new pricing be submitted within 30 days from the date of discovery of the work to be performed by the change order.

Proposed law further provides for any change orders requiring redesign, provided the redesign shall not take more than 90 days from notification by the contractor to the designer of record or in the absence of the designer, the public entity, of the discovery of work to be performed by the change order. Proposed law further provides extensions of time may be granted if necessary for redesign. Once the redesign is complete, the contractor shall submit the cost estimate to the designer or the public entity, for the change order within 45 days for the redesigned work under the change order.

Proposed law provides for any change order, the public entity shall have 45 days from the submittal of the change order to negotiate, approve, or reject the contractor's proposed cost estimate of the work. Proposed law further provides extensions of time may be granted by mutual agreement or shall be granted as necessary for the public entity to obtain governmental approval.

Proposed law provides the contractor shall not be required to provide any schedule updates incorporating a change order until that change order is executed, unless the schedule is needed for evaluation of the proposed change order.

Proposed law provides the exceptions established in proposed law shall not be waived by contract.

Effective August 1, 2023.

(Amends R.S. 38:2212(M)(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Modifies change order notice time lines.
2. Prohibits contractual waiver of certain provisions in law.