

GREEN SHEET REDIGEST

HB 573

2023 Regular Session

McFarland

PUBLIC CONTRACTS. Provides relative to prohibited provisions in certain public contracts.

DIGEST

Present law (R.S. 38:2195(A)) specifies that any provision contained in a public contract, except a provision naming a co-insured or additional beneficiary in a contract of insurance, which requires a public entity to assume liability for damages arising out of injuries or property damage to the contracting parties or to third parties caused by the negligence of anyone other than the public body, its employees, or agents, is contrary to the public policy of the state of La. Further specifies that any and all such provisions in any public contract issued on or after Oct. 1, 1988, is null and void.

Present law (R.S. 38:2195(B)) specifies that the provisions of present law are not applicable to intrastate intergovernmental contracts and to contracts with private providers for the placement and care of persons in the custody of the state.

Present law (R.S. 38:2195(C)) specifies that the provisions of present law do not apply to contracts between a public entity and the owner of immovable property when the contract grants the public entity a servitude, right of way, or other authority to go upon, construct works, perform activities, or otherwise exercise control over or use the owner's property.

Proposed law redesignates provisions of present law and adds a provision that specifies that any provision contained in a public contract other than a provision naming another as co-insured or additional beneficiary in a contract of insurance, which requires a contracting private party to assume liability for damages due to the negligence of anyone other than the contracting private party or their agents, is null and void.

Present law (R.S. 48:251.7(A)) specifies that any provision contained in a department contract, except a provision naming a co-insured or additional beneficiary in a contract of insurance, which requires the department to assume liability for damages arising out of injuries or property damage to the contracting parties or to third parties caused by the negligence of anyone other than the department, its employees, or agents, is contrary to the public policy of the state of La. Further specifies that any and all such provisions in any department contract is null and void.

Present law (R.S. 48:251.7(B)) specifies that the provisions of present law do not apply to contracts between the department and the owner of immovable property when the contract grants the department a servitude, right-of-way, or other authority to go upon, construct works, perform activities, or to otherwise exercise control over or use the owner's property.

Proposed law redesignates present law and adds a provision that specifies that any provision contained in a department contract other than a provision naming another as co-insured or additional beneficiary in a contract of insurance, which requires a contracting private party to assume liability for damages due to the negligence of anyone other than the contracting private party or their agents, is null and void.

(Amends R.S. 38:2195(B) and (C) and R.S. 48:251.7(B); adds R.S. 38:2195(D) and R.S. 48:251.7(C))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Modify the proposed law provision governing public contracts to specify that any provision contained in a public contract other than a provision naming another

as co-insured or additional beneficiary in a contract of insurance, which requires contracting parties to assume liability for damages due to the negligence of anyone other than the contracting parties or their agents, is null and void.

2. Modify the proposed law provision governing department contracts to specify that any provision contained in a department contract other than a provision naming another as co-insured or additional beneficiary in a contract of insurance, which requires contracting parties to assume liability for damages due to the negligence of anyone other than the contracting parties or their agents, is null and void.

Summary of Amendments Adopted by Senate

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

1. Clarifies contracting party as a contracting private party.