

CONFERENCE COMMITTEE REPORT

SB 265

2024 Regular Session

Womack

June 3, 2024

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 265 by Senator Womack, recommend the following concerning the Reengrossed bill:

1. That Legislative Bureau Amendments proposed by the Legislative Bureau and adopted by House of Representatives on May 28, 2024, be adopted.
2. That the set of House Floor Amendments, designated as #5260, proposed by Representative McFarland and adopted by the House of Representatives on May 29, 2024, be adopted.
3. That the following amendments to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 3, line 26, after "**bond**" delete "**pursuant to this Part**"

AMENDMENT NO. 2

On page 4, line 2, after "**for**" and before "**delivered**" change "**materials**" to "**material**"

AMENDMENT NO. 3

On page 4, at the end of line 3, change "**materials**" to "**material**"

AMENDMENT NO. 4

On page 4, line 4, after "**after**" delete the remainder of the line and insert "**delivery of the material, the materialman**"

AMENDMENT NO. 5

On page 4, delete line 7 and insert "**after delivery of the material.**"

AMENDMENT NO. 6

On page 4, line 9, after "**pay**" and before "**materialman**" change "**a**" to "**the**"

AMENDMENT NO. 7

On page 4, line 12, after "**other**" delete "**claims and**" and insert "**rights, claims, or**"

AMENDMENT NO. 8

On page 5, line 12, after "**for**" and before "**delivered**" change "**materials**" to "**material**"

AMENDMENT NO. 9

On page 5, at the end of line 13, change "**materials**" to "**material**"

AMENDMENT NO. 10

On page 5, line 14, after "**after**" delete the remainder of the line and insert "**delivery of the material, the**"

AMENDMENT NO. 11

On page 5, delete line 18 and insert "**after delivery of the material.**"

AMENDMENT NO. 12

On page 5, line 20, after "**pay**" and before "**materialman**" change "**a**" to "**the**"

AMENDMENT NO. 13

On page 5, line 23, after "**other**" delete "**claims and**" and insert "**rights, claims, or**"

AMENDMENT NO. 14

On page 5, line 29, delete "**bond**"

AMENDMENT NO. 15

On page 6, line 24, after "**bond**" delete "**pursuant to this Part**"

AMENDMENT NO. 16

On page 6, line 29, "**for**" and before "**delivered**" change "**materials**" to "**material**"

AMENDMENT NO. 17

On page 7, at the end of line 1, change "**materials**" to "**material**"

AMENDMENT NO. 18

On page 7, line 2, after "**after**" delete the remainder of the line and insert "**delivery of the material, the**"

AMENDMENT NO. 19

On page 7, delete line 6 and insert "**after delivery of the material.**"

AMENDMENT NO. 20

On page 7, line 11, after "**other**" delete "**claims and**" and insert "**rights, claims, or**"

AMENDMENT NO. 21

On page 7, line 15, delete "**bond**"

Respectfully submitted,

Senators:

Senator Glen Womack

Senator Gregory A. Miller

Senator Jeremy P. Stine

Representatives:

Representative Foy Bryan Gadberry

Representative Ryan Bourriaque

Representative Troy D. Romero

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Emily Toler.

CONFERENCE COMMITTEE REPORT DIGEST

SB 265

2024 Regular Session

Womack

Keyword and summary of the bill as proposed by the Conference Committee

CONTRACTS. Provides relative to public contracts and public works. (gov sig)

Report adopts House amendments to:

1. Provide that the claim and right to payment of the materialman is in addition to any other rights available.
2. Make technical changes.

Report amends the bill to:

1. Add provision that the claim and right to payment of the materialman is in addition to any other rights available throughout present law provisions relative to public contracts and public works.
2. Makes technical changes.

Digest of the bill as proposed by the Conference Committee

Present law provides that the payment provisions of all bonds furnished for public work contracts are required to be construed as and deemed statutory bond provisions.

Proposed law provides a surety who has furnished such a bond is not precluded from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor and otherwise retains present law.

Present law provides that nothing may deprive any claimant, of a right of action on the bond furnished, provided that an action must be initiated against the surety or the contractor or both within one year from either the registry of acceptance of the work or of notice of default of the contractor.

Proposed law requires that a surety who has furnished such a bond is not precluded from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor and otherwise retains present law.

Present law requires that when the Department of Transportation and Development enters into a contract in excess of \$50,000 for the construction, maintenance, alteration, or repair of any public works, the department shall require of the contractor a bond with good, solvent, and sufficient surety.

Proposed law provides nothing shall be construed to preclude a surety who has furnished such a bond from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor and otherwise retains present law.

Present law provides nothing shall deprive any claimant, who has complied with the notice and recordation requirements of the law, of a right of action on the bond furnished provided that action must be brought against the surety or the contractor or both within one year from the registry of acceptance of the work or of notice of default of the contractor.

Proposed law provides nothing shall be construed to preclude a surety who has furnished such bond from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor and otherwise retains present law.

Proposed law requires that a surety issue payment to a materialman under certain conditions if the materials conform to the material specifications, a notice of nonpayment has been issued after forty-five days, and no payment in full has been made to a materialman within ninety days after delivery of the materials.

Proposed law mandates that a surety pay a materialman within ten days after notice of nonpayment, if certain statutory requirements are satisfied.

Proposed law provides the claim and right to payment of a materialman is in addition to any other rights, claims, or remedies available.

Proposed law requires notice to be served by registered or certified United States mail in a postage prepaid, properly addressed envelope to the last known address of the general contractor, surety, and owner with a return receipt indicating that the letter was delivered, refused, or unclaimed to satisfy notice provisions.

Proposed law exempts all contracts for projects that are directly associated with the preparation of Super Bowl LIX from the provisions of present law relative to public works contracts, except for contracts for projects in excess of \$150,000. Further provides that the exemption terminates on February 10, 2025.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S.38:2241(C) and 2247 and R.S. 48:256.3(B) and 256.12; adds R.S. 38:2241(G))