

2021 Regular Session

HOUSE BILL NO. 220

BY REPRESENTATIVE GREGORY MILLER

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

PUBLIC CONTRACTS: Provides relative to public works contracts

1 AN ACT

2 To amend and reenact R.S. 38:2215(A), relative to contracts for public works; to require the
3 award of a public works contract within a specified time after judgment determining
4 the lowest responsible and responsive bidder; to restrict the application of suspensive
5 appeals for certain public works awards resulting from certain court actions; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2215(A) is hereby amended and reenacted to read as follows:

9 §2215. Time period for holding bids; issuance of work orders to commence work;
10 exceptions

11 A.(1) A public entity shall act not later than forty-five calendar days after the
12 date of opening bids to award such public works contract to the lowest responsible
13 and responsive bidder or to reject all bids. However, the public entity and the lowest
14 responsible and responsive bidder, by mutually written consent, may agree to extend
15 the deadline for award by one or more extensions of thirty calendar days.

16 (2)(a) Expeditious Trial on the Merits. If an interested party or bidder files
17 for an injunction or writ of mandamus, they shall receive a trial on the requested
18 relief in the district court within thirty calendar days of the filing of the suit. The
19 district court shall render a final judgment not more than fifteen calendar days after
20 the conclusion of the trial. A public entity shall award a public works contract in

1 accordance with the judgment of a Louisiana court determining the lowest
2 responsible and responsive bidder no later than forty-five days after such judgment,
3 unless a timely suspensive appeal is filed.

4 (b) Public Entity's Right to Suspensive Appeal. Unless waived, only the
5 public entity may take a suspensive appeal within fifteen calendar days of the
6 rendition of the final judgment of the district court. The suspensive appeal of the
7 public entity shall be returnable to the appropriate appellate court not more than
8 fifteen calendar days from the rendition of the final judgment of the district court.
9 The suspensive appeal of the public entity shall be expedited and heard no later than
10 thirty calendar days from the return day of the appeal. The appellate court shall
11 render its ruling on the merits within thirty calendar days of the return day of the
12 appeal.

13 (c) Under no circumstance may an awarded bidder agree to relinquish or to
14 compromise its award status in favor of another bidder.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 220 Reengrossed 2021 Regular Session Gregory Miller

Abstract: Provides a specified time period after judicial determination for a public works contract to be awarded. Provides only the public entity may take a suspensive appeal. Prohibits an awarded bidder from agreeing to relinquish or to compromise its award status in favor of another bidder.

Present law requires a public entity act not later than 45 calendar days after the date opening bids to award the public works contract to the lowest responsible and responsive bidder or to reject all bids. Present law authorizes the public entity and the lowest responsible and responsive bidder to extend the deadline for award by one or more extensions of 30 calendar days by a mutually written agreement.

Present law requires the lowest responsible and responsive bidder and the public entity to execute the contract not later than 60 calendar days after the date of the public entity's award of the contract to the lowest responsible and responsive bidder if the lowest responsible and responsive bidder has timely provided all documents required by present law and no injunction or temporary restraining order is in effect.

Present law requires the contractor to issue notice to move forward with the project or work order not later than 30 calendar days following the date of execution of the contract by both

parties, whichever execution date is later. Present law authorizes the public entity and the contractor to extend the deadline to issue notice to move forward upon a mutual written consent.

Present law prohibits the application of present law when the contract will either be financed by bonds which are required to be sold after opening bids on the contract, by federal or other funds in whole or in part which will not be readily available at the time bids are opened, or on contracts requiring a poll of the Legislature of La. before funds are available for the contract. Present law requires any time limit stipulated in present law be mentioned in the bidding documents for the project and in the official advertisement of bids required in accordance with present law.

Proposed law retains present law and expedites the judicial process. Requires that a public entity, in the event of an interested party or bidder who files for an injunction or writ of mandamus, is required to receive a trial within 30 calendar days of filing suit in the district court. Requires a final judgement to be rendered not more than 15 calendar days after the conclusion of the trial. Further requires a public entity to award a public works contract in accordance with the rendered judgment no later than 45 days after the judgment unless a timely suspensive appeal is filed.

Proposed law reserves a public entity's right to a suspensive appeal. Requires only the public entity to take a suspensive appeal within 15 days of the rendered final judgment, unless waived. Requires the suspensive appeal to be returnable to the appropriate appellate court not more than 15 calendar days from the rendered final judgment. Further requires the suspensive appeal be expedited and heard no later than 30 calendar days from the return of the appeal.

Proposed law provides under no circumstance may an awarded bidder agree to relinquish or to compromise its award status in favor of another bidder.

(Amends R.S. 38:2215(A))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Delete a provision that prohibits a suspensive appeal for any judgment issued by a La. district court mandating the award of a public works contract.
2. Add a provision that expedites the judicial process. Requires an interested party or bidder filing an injunction or writ of mandamus receive a trial in the district court within 30 calendar days. Requires a final judgment be rendered not more than 15 calendar days after the conclusion of the trial. Further requires a public entity to award a public works contract in accordance with the rendered judgment no later than 45 days unless a timely suspensive appeal is filed.
3. Add a provision that reserves a public entity's right to a suspensive appeal. Requires only the public entity to take a suspensive appeal within 15 days of the rendered final judgment unless waived. Requires the suspensive appeal to be returnable to the appropriate appellate court not more than 15 calendar days from the rendered final judgment. Further requires the suspensive appeal be expedited and heard no later than 30 calendar days from the return of the appeal.
4. Add a provision that prohibits an awarded bidder from agreeing to relinquish or to compromise its award status in favor of another bidder.