The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Martha S. Hess.

DIGEST

SB 474 Original | 2022 Regular Session | Womack

Present law provides that the public entity shall pay the contractor for work performed by change order not later than 60 days after the date the public entity approves the application for payment for completion of the work performed in the change order.

Proposed law changes the time for the public entity to pay the contractor after approval of the application for payment from 60 days to 30 days.

Present law provides that any change order pertaining to public work, not required by present law to be publicly bid, shall either be negotiated in the best interest of the public entity or let out for public bid. Where the change order is negotiated, the public entity shall require that the change order be fully documented and itemized as to costs, material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit, and overhead. Where certain unit prices are contained in the initial contract, no deviations shall be allowed in computing negotiated change order costs.

Proposed law retains present law and provides that the change order shall be executed within 30 days of the discovery of the work covered by the change order. Payment for the work performed by change order, including any progressive stage payment, shall be made no later than 30 days from the completion of that work. If for any reason the execution of the agreed upon change order or any delay in payment of the work performed is delayed, the public owner shall pay the contractor daily general conditions as covered in the contract and shall be distributed on a pro rata share with any subcontractors or material suppliers involved in the work.

Proposed law provides that any public entity failing to act in accordance with proposed law shall be subject to mandamus to compel such action and shall further be liable for reasonable attorney fees and interest charged at .5% accumulated daily, not to exceed 15%, of the amount of the change order. Any interest received by the contractor pursuant to proposed law shall be disbursed on a prorated basis among the contractor and subcontractors, each receiving a prorated portion based on the principal amount due within 10 business days of receipt of the interest.

Proposed law provides that the contractor shall not be required to provide any schedule updates incorporating a change order until the change order is executed.

Proposed law states that the provisions of proposed law shall not be subject to waiver by contract.

Effective August 1, 2022.

(Amends R.S. 38:2212(M)(3) and (5))