

2022 Regular Session

SENATE BILL NO. 474

BY SENATORS WOMACK AND MCMATH AND REPRESENTATIVE ROMERO

PUBLIC WORKS. Provides relative to change orders on public works contracts. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 38:2212(M)(3) and (5), relative to change orders on public
3 works contracts; to provide for time periods for change orders to be executed and
4 paid; to provide for mandamus against public entities failing to act in accordance
5 with law as well as the recovery of reasonable attorney fees and interest; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2212(M)(3) and (5) are hereby amended and reenacted to read as
9 follows:

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

13 * * *

14 M. * * *

15 (3) The public entity shall pay the contractor for work performed by change
16 order not later than ~~sixty~~ **forty-five** days after the date the public entity approves the
17 application for payment for completion of the work performed in the change order.

1 * * *

2 (5) Any change order pertaining to public work, not required by this Part to
3 be let out for public bid, shall either be negotiated in the best interest of the public
4 entity or let out for public bid as provided by this Part. Where the change order is
5 negotiated, the public entity shall require that such change order be fully documented
6 and itemized as to costs, including material quantities, material costs, taxes,
7 insurance, employee benefits, other related costs, profit, and overhead. Where certain
8 unit prices are contained in the initial contract, no deviations shall be allowed in
9 computing negotiated change order costs. **The change order shall be executed**
10 **within forty-five days from the discovery of the work to be covered by the**
11 **change order, unless a redesign of the work is required. If the change order**
12 **requires redesign, the redesign shall not take more than thirty days following**
13 **discovery. The contractor shall submit, within ten days of the discovery of the**
14 **work, a proposal for the estimated cost of the change order upon completion of**
15 **the redesign. If no redesign is required, then the contractor shall submit within**
16 **ten days of discovery of the work, a proposal for the estimated cost of the**
17 **change order. Once the contractor has submitted the cost estimate, the public**
18 **entity shall have fifteen days to negotiate and approve or reject the contractor's**
19 **proposed costs of work covered by the change order. Extensions of time may be**
20 **granted upon mutual written agreement or as necessary for the public entity to**
21 **obtain governmental approval. The contractor shall not be required to provide**
22 **any schedule updates incorporating a change order until the change order is**
23 **executed.**

24 **(b) The provisions of this Paragraph shall not be subject to waiver by**
25 **contract.**

26 * * *

The original instrument was prepared by Martha Hess. The following digest, which does not constitute a part of the legislative instrument, was prepared by Archana Cadge.

DIGEST

SB 474 Engrossed

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 45 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 45 days of the discovery of the work covered by the change order unless a redesign of the work is necessary.

Proposed law provides the contractor shall submit a proposal for the estimated cost of the change order once the redesign is completed. Proposed law further provides if a redesign is not required then the contractor shall submit, a proposal for the estimated cost of the change order within ten days of the discovery.

Proposed law provides for 15 days in which to negotiate the cost of a change order. Further provides the public entity and contractor may agree to more than 15 days to negotiate, approve, or reject the contractor's proposed costs of work.

Effective August 1, 2022.

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

Summary of Amendments Adopted by Senate

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

1. Changes the time for the public entity to pay the contractor after approval of the application for payment from 60 days to 45 days.
2. Changes the time of when change orders shall be executed to forty-five days from the discovery of the work to be covered by the change order, unless a redesign of the work is required.
3. Adds timelines to discovery of work relating to change orders and redesigns.