

2016 Regular Session

HOUSE BILL NO. 1128

BY REPRESENTATIVE TALBOT

PUBLIC CONTRACTS: Requires certain entities to make payments pursuant to certain contracts in a timely fashion

1 AN ACT

2 To enact Chapter 27 of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised
3 R.S. 39:2211, relative to payment of contracts by certain governmental entities; to
4 require governmental entities to pay all obligations arising under public contracts
5 within a certain time; to provide relative to interest for past due payments; to provide
6 relative to claims and disputes regarding payments demanded; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 27 of Title 39 of the Louisiana Revised Statutes of 1950, to be
10 comprised R.S. 39:2211, is hereby enacted to read as follows:

11 CHAPTER 27. PAYMENTS UNDER CONTRACT

12 §2211. Payments under contract

13 A. Time for payment by a vendor. A vendor who receives a payment from
14 a governmental entity shall pay a subcontractor the appropriate share of the payment
15 not later than the tenth day after the date the vendor receives the payment. The
16 appropriate share is overdue on the eleventh day after the date the vendor receives
17 the payment.

18 B. Time for payment by subcontractor. A subcontractor who receives a
19 payment from a vendor shall pay a person who supplies goods or a service for which
20 the payment is made the appropriate share of the payment not later than the tenth day

1 after the date the subcontractor receives the payment. The appropriate share is
2 overdue on the eleventh day after the date the subcontractor receives the payment.

3 C. Disputed Payment. A governmental entity shall notify a vendor of an
4 error in an invoice submitted for payment by the vendor not later than the twenty-
5 first day after the date the entity receives the invoice.

6 D. Payment of interest by vendor or subcontractor. Payments due on
7 amounts which are not disputed begin to accrue monthly interest on the date the
8 payment becomes overdue. The rate of interest that accrues on an overdue payment
9 is the rate of judicial interest in effect on July first of the fiscal year in which the
10 payment becomes overdue. The governmental entity shall submit the interest
11 payment when it submits the net amount due. Interest on an overdue payment stops
12 accruing on the date the governmental entity or its vendor mails or electronically
13 transmits payment.

14 E. Vendor remedy for nonpayment of contract. A vendor may suspend
15 performance required under a contract with a governmental entity if:

16 (1) The governmental entity does not pay the vendor an undisputed amount
17 within the time limits; and

18 (2) The vendor gives the governmental entity written notice either informing
19 the governmental entity that payment has not been received or stating the intent of
20 the vendor to suspend performance for nonpayment.

21 F. A vendor or subcontractor may not suspend performance with the
22 Louisiana Department of Transportation and Development on any highway,
23 hurricane, road, or emergency-declared project.

24 G. For purposes of this Section, a "governmental entity" is a state agency,
25 parish, or local municipality, incorporated or unincorporated, or any recipient of
26 federal or state funds that utilizes such funds to pay a vendor or subcontractor.

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 1128 Original

2016 Regular Session

Talbot

Abstract: Provides relative to obligations due under contracts to governmental entities.

Proposed law requires a vendor who receives a payment from a governmental entity to pay a subcontractor the appropriate share of the payment not later than the tenth day after the date the vendor receives the payment. Specifies that the appropriate share is overdue on the 11th day after the date the vendor receives the payment.

Proposed law requires a subcontractor who receives a payment from a vendor to pay a person who supplies goods or a service for which the payment is made the appropriate share of the payment not later than the tenth day after the date the subcontractor receives the payment. Specifies that the appropriate share is overdue on the 11th day after the date the subcontractor receives the payment.

Proposed law requires a governmental entity to notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice.

Proposed law provides that payments due on amounts which are not disputed begin to accrue monthly interest on the date the payment becomes overdue. Specifies that the rate of interest that accrues on an overdue payment is the rate of judicial interest in effect on July first of the fiscal year in which the payment becomes overdue. Requires the governmental entity to submit the interest payment when it submits the net amount due. Specifies that interest on an overdue payment will stop accruing on the date the governmental entity or its vendor mails or electronically transmits payment.

Proposed law authorizes a vendor to suspend performance required under a contract with a governmental entity if:

- (1) The governmental entity does not pay the vendor an undisputed amount within the time limits; and
- (2) The vendor gives the governmental entity written notice either informing the governmental entity that payment has not been received or stating the intent of the vendor to suspend performance for nonpayment.

Proposed law prohibits a vendor or subcontractor from suspending performance with the La. Dept. of Transportation and Development on any highway, hurricane, road, or emergency-declared project.

Proposed law defines "governmental entity" as a state agency, parish, or local municipality, incorporated or unincorporated, or any recipient of federal or state funds that utilizes such funds to pay a vendor or subcontractor.

(Adds Chapter 27 of Title 39 of the La. Revised Statutes of 1950, to be comprised R.S. 39:2211)