
HOUSE COMMITTEE AMENDMENTS

2016 Regular Session

Amendments proposed by House Committee on Appropriations to Original House Bill No. 1128 by Representative Talbot

AMENDMENT NO. 1

On page 1, line 2, after "To" delete the remainder of the line and at the beginning of line 3, delete "R.S. 39:2211," and insert "amend and reenact R.S. 38:2191(A) and R.S. 48:251.5(A) and (C) and to enact R.S. 38:2191(E) through (I) and R.S. 48:251.5(D) through (F),"

AMENDMENT NO. 2

On page 1, line 4, after "entities" and before "to" insert a comma "," and insert "contractors, and subcontractors"

AMENDMENT NO. 3

On page 1, line 9, after "Section 1." delete the remainder of the line and delete lines 10 through 20 in their entirety and delete page 2 in its entirety and insert the following:

"R.S. 38:2191(A) is hereby amended and reenacted and R.S. 38:2191(E) through (I) are hereby enacted to read as follows:

§2191. Payments under contract

A. All public entities shall promptly pay all obligations arising under public contracts when the obligations become due and payable under the contract, as provided for in Subsection E of this Section. All progressive stage payments and final payments shall be paid when they respectively become due and payable under the contract.

* * *

E. Payments arising under public contract shall be made as follows:

(1) A public entity shall pay all obligations within forty-five days of the date the obligations become due and payable under the contract. An obligation of a public entity arising under a public contract shall become overdue on the forty-sixth day after the date the obligation became due and payable under the contract. A public entity shall notify a contractor of an error in an invoice submitted for payment by the contractor not later than the twenty-first day after the date the public entity receives the invoice.

(2) A contractor who receives a payment from a public entity shall pay a subcontractor the appropriate share of the payment not later than the fourteenth day after the date the contractor receives the payment from the public entity. The appropriate share shall become overdue on the fifteenth day after the date the contractor receives the payment.

(3) A subcontractor who receives a payment from a contractor shall 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 fourteenth day after the date the subcontractor receives the payment from the contractor. The appropriate share shall become overdue on the fifteenth day after the date the subcontractor receives the payment.

1 F. Payments due on amounts that are not disputed begin to accrue monthly
 2 interest on the date the payment becomes overdue. The rate of interest that accrues
 3 on an overdue payment is the rate of judicial interest in effect on July first of the
 4 fiscal year in which the payment becomes overdue. The public entity, contractor, or
 5 subcontractor shall submit the interest payment when it submits the net amount due.
 6 Interest on an overdue payment stops accruing on the date the public entity,
 7 contractor, or subcontractor mails or electronically transmits payment.

8 G.(1) Except as provided in Subsection H of this Section, a contractor may
 9 suspend performance required under a contract with a public entity if both of the
 10 following apply:

11 (a) The public entity has failed to timely make payments due to a contractor.

12 (b) The contractor gives the public entity written notice either informing the
 13 public entity that payment has not been received or stating the intent of the
 14 contractor to suspend performance for nonpayment.

15 (2) A contractor shall resume performance immediately upon the contractor
 16 receiving the monies due and owed by the public entity to the contractor under the
 17 contract.

18 H. A contractor or subcontractor may not suspend performance with the
 19 Louisiana Department of Transportation and Development on any highway or road
 20 project while there is a named hurricane in the Gulf of Mexico or during a declared
 21 state of emergency by the governor.

22 I. The provisions of this Section shall not apply to payments arising under
 23 public contracts when a public entity is using federal funds to make the required
 24 payment and the terms of a federal contract, grant, statute, or regulation prevent the
 25 public entity from making the payment timely.

26 Section 2. R.S. 48:251.5(A) and (C) are hereby amended and reenacted and
 27 R.S. 48:251.5(D) through (F) are hereby enacted to read as follows:

28 §251.5. Payments under contract

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 30 A.(1) The department shall promptly pay all obligations arising under public
 31 contracts within thirty days of the date the obligations become due and payable under
 32 the contract. All progressive stage payments and final payments shall be paid when
 33 they, respectively, become due and payable under the contract.

34 (2) An obligation of a department arising under a public contract shall
 35 become overdue on the thirty-first day after the date the obligation became due and
 36 payable under the contract. The department shall notify a contractor of an error in
 37 an invoice submitted for payment by the contractor not later than the twenty-first day
 38 after the date the department receives the invoice.

39 (3) A contractor who receives a payment from the department shall pay a
 40 subcontractor the appropriate share of the payment not later than the fourteenth day
 41 after the date the contractor receives the payment from the department. The
 42 appropriate share shall become overdue on the fifteenth day after the date the
 43 contractor receives the payment.

44 (4) A subcontractor who receives a payment from a contractor shall pay a
 45 person who supplies goods or a service for which the payment is made the
 46 appropriate share of the payment not later than the fourteenth day after the date the
 47 subcontractor receives the payment from the contractor. The appropriate share shall

1 become overdue on the fifteenth day after the date the subcontractor receives the
2 payment.

3 (5) Payments due on amounts that are not disputed begin to accrue monthly
4 interest on the date the payment becomes overdue. The rate of interest that accrues
5 on an overdue payment is the rate of judicial interest in effect on July 1 of the fiscal
6 year in which the payment becomes overdue. The department, contractor, or
7 subcontractor shall submit the interest payment when it submits the net amount
8 due. Interest on an overdue payment stops accruing on the date the department,
9 contractor, or subcontractor mails or electronically transmits payment.

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13 C. (1) Except as provided in Subsection D of this Section, a contractor may
14 suspend performance required under a contract with the department if both of the
15 following apply:

16 (a) The department has failed to timely make payments due to a contractor.

17 (b) The contractor gives the department written notice either informing the
18 department that payment has not been received or stating the intent of the contractor
19 to suspend performance for nonpayment.

20 (2) A contractor shall resume performance immediately upon the contractor
21 receiving the monies due and owed by the public entity to the contractor under the
22 contract.

23 D. A contractor or subcontractor may not suspend performance with the
24 Louisiana Department of Transportation and Development on any highway or road
25 project while there is a named hurricane in the Gulf of Mexico or a during a declared
26 state of emergency by the governor.

27 E. The provisions of this Section shall not apply to payments arising under
28 public contracts when a department is using federal funds to make the required
29 payment and the terms of a federal contract, grant, statute, or regulation prevent the
30 department from making the payment timely.

31 F. The provisions of this Section shall not be subject to waiver by contract."

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