

1-1 By: Bell of Kaufman, et al. H.B. No. 1477
 1-2 (Senate Sponsor - Nichols)
 1-3 (In the Senate - Received from the House May 5, 2021;
 1-4 May 6, 2021, read first time and referred to Committee on Business
 1-5 & Commerce; May 20, 2021, reported favorably by the following vote:
 1-6 Yeas 9, Nays 0; May 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to performance and payment bonds for public work contracts
 1-21 on public property leased to a nongovernmental entity.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Sections 2253.001(3) and (4), Government Code,
 1-24 are amended to read as follows:

1-25 (3) "Prime contractor" means a person, firm, or
 1-26 corporation that makes a public work contract with:

1-27 (A) a governmental entity; or

1-28 (B) a person who leases any public property,
 1-29 other than a person who leases property from a river authority
 1-30 created pursuant to Section 59, Article XVI, Texas Constitution,
 1-31 that owns electric generation capacity in excess of 1,000
 1-32 megawatts.

1-33 (4) "Public work contract" means a contract for
 1-34 constructing, altering, or repairing a public building or carrying
 1-35 out or completing any public work, including work performed on
 1-36 property owned by a governmental entity or on public property
 1-37 leased by the governmental entity to a nongovernmental entity.
 1-38 "Public work contract" does not include any contract entered into
 1-39 by a nongovernmental entity that leases property from a river
 1-40 authority created pursuant to Section 59, Article XVI, Texas
 1-41 Constitution, that owns electric generation capacity in excess of
 1-42 1,000 megawatts.

1-43 SECTION 2. Section 2253.021(a), Government Code, is amended
 1-44 to read as follows:

1-45 (a) A governmental entity that makes a public work contract
 1-46 with a prime contractor or authorizes a nongovernmental entity
 1-47 leasing public property from the governmental entity to enter into
 1-48 a public work contract with a prime contractor shall require the
 1-49 contractor, before beginning the work, to execute to the
 1-50 governmental entity:

1-51 (1) a performance bond if the contract is in excess of
 1-52 \$100,000; and

1-53 (2) a payment bond if:

1-54 (A) the contract is in excess of \$25,000, and the
 1-55 governmental entity is not a municipality or a joint board created
 1-56 under Subchapter D, Chapter 22, Transportation Code; or

1-57 (B) the contract is in excess of \$50,000, and the
 1-58 governmental entity is a municipality or a joint board created
 1-59 under Subchapter D, Chapter 22, Transportation Code.

1-60 SECTION 3. Sections 2253.024(a) and (b), Government Code,
 1-61 are amended to read as follows:

2-1 (a) A prime contractor, on the written request of a person
2-2 who provides public work labor or material and when required by
2-3 Subsection (c), shall provide to the person:

2-4 (1) the name and last known address of the
2-5 governmental entity or nongovernmental leasehold tenant with whom
2-6 the prime contractor contracted for the public work;

2-7 (2) a copy of the payment and performance bonds for the
2-8 public work, including bonds furnished by or to the prime
2-9 contractor; and

2-10 (3) the name of the surety issuing the payment bond and
2-11 the performance bond and the toll-free telephone number maintained
2-12 by the Texas Department of Insurance under Subchapter B, Chapter
2-13 521, Insurance Code, for obtaining information concerning licensed
2-14 insurance companies.

2-15 (b) A subcontractor, on the written request of a
2-16 governmental entity, a nongovernmental leasehold tenant with whom
2-17 the prime contractor contracted, the prime contractor, a surety on
2-18 a bond that covers the public work contract, or a person providing
2-19 work under the subcontract and when required by Subsection (c),
2-20 shall provide to the person requesting the information:

2-21 (1) the name and last known address of each person from
2-22 whom the subcontractor purchased public work labor or material,
2-23 other than public work material from the subcontractor's inventory;

2-24 (2) the name and last known address of each person to
2-25 whom the subcontractor provided public work labor or material;

2-26 (3) a statement of whether the subcontractor furnished
2-27 a bond for the benefit of its subcontractors and materialmen;

2-28 (4) the name and last known address of the surety on
2-29 the bond the subcontractor furnished; and

2-30 (5) a copy of that bond.

2-31 SECTION 4. Section 2253.071(a), Government Code, is amended
2-32 to read as follows:

2-33 (a) The proceeds of a public work contract are not payable,
2-34 until all costs of completion of the contract work are paid by the
2-35 contractor or the contractor's surety, to a contractor who
2-36 furnishes a bond required by this chapter if:

2-37 (1) the contractor abandons performance of the
2-38 contract; or

2-39 (2) the contractor's right to proceed with performance
2-40 of the contract is lawfully terminated by the awarding governmental
2-41 entity or nongovernmental entity leasing public property from the
2-42 governmental entity because of the contractor's default.

2-43 SECTION 5. The changes in law made by this Act apply only to
2-44 a public work contract or construction project for which a
2-45 governmental entity or a nongovernmental entity leasing public
2-46 property from the governmental entity first advertises or otherwise
2-47 requests bids, proposals, offers, or qualifications, or makes a
2-48 similar solicitation, on or after the effective date of this Act.

2-49 SECTION 6. This Act takes effect September 1, 2021.

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