

CS for EHB 2470

THE STATE SENATE
Monday, April 10, 2006

Committee Substitute for
ENGROSSED
House Bill No. 2470

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2470 - By:
PETERSON (Pam) and NANCE of the House and JOLLEY of the Senate.

[public buildings and public works - Public Competitive
Bidding Act of 1974 - modifying certain time limitation -
effective date -
emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 61 O.S. 2001, Section 102, as last
amended by Section 1, Chapter 89, O.S.L. 2005 (61 O.S. Supp. 2005,
Section 102), is amended to read as follows:

Section 102. As used in the Public Competitive Bidding Act of
1974:

1. "Administrator" means the State Construction Administrator
of the Construction and Properties Division of the Department of
Central Services;

2. "Awarding public agency" means the public agency which
solicits and receives sealed bids on a particular public
construction contract;

3. "Bidding documents" means the bid notice, instruction to
bidders, plans and specifications, bidding form, bidding

1 instructions, general conditions, special conditions and all other
2 written instruments prepared by or on behalf of an awarding public
3 agency for use by prospective bidders on a public construction
4 contract;

5 4. "Chief administrative officer" means an individual
6 responsible for directing the administration of a public agency.
7 The term does not mean one or all of the individuals that make
8 policy for a public agency;

9 5. "Public agency" means the State of Oklahoma, and any county,
10 city, town, school district or other political subdivision of the
11 state, any public trust, any public entity specifically created by
12 the statutes of the State of Oklahoma or as a result of statutory
13 authorization therefor, and any department, agency, board, bureau,
14 commission, committee or authority of any of the foregoing public
15 entities;

16 6. "Public construction contract" or "contract" means any
17 contract, exceeding Twenty-five Thousand Dollars (\$25,000.00) in
18 amount, awarded by any public agency for the purpose of making any
19 public improvements or constructing any public building or making
20 repairs to or performing maintenance on the same except where the
21 improvements, construction of any building or repairs to the same
22 are improvements or buildings leased to a person or other legal
23 entity exclusively for private and not for public use and no public

1 tax revenues shall be expended on or for the contract unless the
2 public tax revenues used for the project are authorized by a
3 majority of the voters of the applicable public agency voting at an
4 election held for that purpose and the public tax revenues do not
5 exceed twenty-five percent (25%) of the total project cost. The
6 amount of public tax dollars committed to the project will not
7 exceed a fixed amount established by resolution of the governing
8 body prior to or concurrent with approval of the project. “Public
9 construction contract” or “contract” also means any contract that is
10 derived from other forms of consideration such as a promise of
11 performance, including but not limited to, pledging a percentage of
12 revenues or toll charges due to a public agency and is awarded by
13 any public agency for the purpose of constructing any road or bridge
14 whereby the public agency has an agreement to authorize a private
15 entity to make such construction and transfer the road or bridge
16 back to the public agency at a later date;

17 7. “Public improvement” means any beneficial or valuable change
18 or addition, betterment, enhancement or amelioration of or upon any
19 real property, or interest therein, belonging to a public agency,
20 intended to enhance its value, beauty or utility or to adapt it to
21 new or further purposes. The term does not include the direct
22 purchase of materials, provided that the materials are not purchased
23 in increments for an amount of less than Twenty-five Thousand

1 Dollars (\$25,000.00) and used for the purposes of completing a
2 single project, equipment or supplies by a public agency, or any
3 personal property as defined in paragraphs 1 and 4 of subsection B
4 of Section 430.1 of Title 62 of the Oklahoma Statutes; and

5 8. "Retainage" means the difference between the amount earned
6 by the contractor on a public construction contract, with the work
7 being accepted by the public agency, and the amount paid on said
8 contract by the public agency.

9 SECTION 2. AMENDATORY 61 O.S. 2001, Section 122, is
10 amended to read as follows:

11 Section 122. Any taxpayer of the State of Oklahoma, or any bona
12 fide unsuccessful bidder on a particular public construction
13 contract, within ~~ten (10)~~ fifteen (15) business days after any such
14 contract has been executed, is empowered to bring suit in the
15 district court of the county where the work, or the major part of
16 it, is to be done to enjoin the performance of such contract if
17 entered into in violation of the provisions of this act.

18 SECTION 3. This act shall become effective July 1, 2006.

19 SECTION 4. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-5-06 - DO
24 PASS, As Amended.