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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1114 By: West (Kevin) of the House

By: West (Kevin) of the House

and

Pederson of the Senate

AS INTRODUCED

An Act relating to public buildings and public works; amending 61 O.S. 2011, Sections 113.1 and 226, which relate to the Public Competitive Building Act of 1974; modifying retainage on certain public contracts; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 113.1, is amended to read as follows:

Section 113.1 A. A public construction contract shall provide for partial payment based upon work completed. ~~The~~ A contract ~~shall,~~ not subject to a bond pursuant to Section 1 of this title, may provide that up to five percent (5%) of all partial payments made shall be withheld as retainage. If a public construction contract is subject to a bond pursuant to Section 1 of this title, no retainage shall be withheld from the entity posting the bond.

1 B. The Department of Transportation or the Oklahoma Turnpike  
2 Authority shall not withhold retainage on public construction  
3 contracts awarded by the Department or the Authority.

4 C. The Department of Transportation shall not withhold  
5 retainage or require any bond on projects awarded to railroads on  
6 the railroad's privately owned or operated rail property.

7 SECTION 2. AMENDATORY 61 O.S. 2011, Section 226, is  
8 amended to read as follows:

9 Section 226. A. A construction contract, not subject to a bond  
10 pursuant to Section 1 of this title, may include a provision for the  
11 retainage of a portion of payment due. Such retainage is not to  
12 exceed five percent (5%) of the amount of the payment due. If a  
13 construction contract is subject to a bond pursuant to Section 1 of  
14 this title, no retainage shall be withheld from the entity posting  
15 the bond.

16 B. A subcontract ~~may~~ shall include a provision for either the  
17 retainage of a portion of payment due or for providing payment for  
18 performance and maintenance bonds. ~~Such~~ If retainage is to be  
19 included in a subcontract, such retainage ~~is~~ shall not ~~to~~ exceed  
20 five percent (5%) of the amount of the payment due. The holder of  
21 the retainage shall be responsible for payment on all interest  
22 accrued. If a subcontract is subject to a bond pursuant to Section  
23 1 of this title, no retainage shall be withheld from the entity  
24 posting the bond.

1 C. No later than twenty-one (21) calendar days after a  
2 certificate of substantial completion is issued for the project or  
3 separate usable phase of the project and upon adequate performance  
4 of the prime contractor and with approval of any applicable surety,  
5 retainage shall be released by the owner to the prime contractor  
6 less an amount no greater than one hundred fifty percent (150%) of  
7 the estimated costs to correct any incomplete or defective work as  
8 identified, itemized, and attached to the certificate of substantial  
9 completion. All remaining funds shall be released as each  
10 deficiency is satisfactorily completed. The prime contractor shall  
11 release within ten (10) calendar days of receipt, the share of those  
12 funds that have been withheld from other entities. All other  
13 entities shall release within seven (7) calendar days of receipt,  
14 the share of those funds that have been withheld from other  
15 entities.

16 SECTION 3. This act shall become effective November 1, 2019.

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18 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT EFFICIENCY, dated  
19 02/06/2019 - DO PASS, As Coauthored.  
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