

SUBJECT: Expanding performance and payment bond requirements to certain entities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

WITNESSES: For — Sewall Cutler, Independent Electrical Contractors of Texas, Texas Masonry Council, and Texas Construction Association; Jennifer Fagan, Texas Construction Association; (*Registered, but did not testify:* CJ Tredway, Independent Electrical Contractors; Bill Kelly, Mayor's Office, City of Houston; Randy Cubriel, Nucor; Eric Woomer, Precast Concrete Manufacturers Association of Texas and Texas Crane Owners Association)

Against — (*Registered, but did not testify:* Sarah Murphy)

BACKGROUND: Government Code ch. 2253 governs public works performance and payment bonds. Under sec. 2253.021, a governmental entity that makes a public work contract with a prime contractor must require the contractor, before beginning the work, to execute performance and payment bonds for certain contracts.

Interested parties have noted that more private entities are leasing public property and constructing improvements, but that such entities are not currently under state law governing performance and payment bond requirements. It has been suggested that expanding the applicability of those laws to private entities would protect the right to payment for subcontractors and suppliers whose labor and materials are used to build improvements on leased public lands.

DIGEST: HB 1477 would expand the applicability of Government Code ch. 2253, governing performance and payment bond requirements, to a public work contract for work performed on public property leased by a

nongovernmental entity.

A government entity that authorized a nongovernmental entity leasing public property from the governmental entity to contract with a prime contractor would have to require the contractor to execute performance and payment bonds for certain contracts.

The bill would take effect September 1, 2021, and would apply only to a public work contract or construction project for which an entity first advertised or requested bids, proposals, offers, or qualifications on or after that date.