

2026 Regular Session

HOUSE BILL NO. 490

BY REPRESENTATIVE KERNER

PUBLIC CONTRACTS: Provides limited exemptions from payment under contract requirements for public entities in certain circumstances

1 AN ACT

2 To amend and reenact R.S. 38:2191(B) through (E) and to enact R.S. 38:2191(F), relative
3 to public contracts, works, and improvements; to provide relative to payments under
4 contract by public entities; to exempt public entities from payment under contract
5 requirements in certain circumstances; to provide for interruption of payment under
6 contract requirements during declared emergencies; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 38:2191(B) through (E) are hereby amended and reenacted and R.S.
10 38:2191(F) is hereby enacted to read as follows:

11 §2191. Payments under contract

12 * * *

13 B.(1) ~~Any~~ Except as provided in Subsection C of this Section, any public
14 entity failing to make any progressive stage payment within forty-five days
15 following receipt of a certified request for payment by the public entity without
16 reasonable cause shall be liable for reasonable attorney fees and interest charged at
17 one-half percent accumulated daily, not to exceed fifteen percent. Any public entity
18 failing to make any final payments after formal final acceptance and within
19 forty-five days following receipt of a clear lien certificate by the public entity shall
20 be liable for reasonable attorney fees and interest charged at one-half percent
21 accumulated daily, not to exceed fifteen percent.

1 (2) Any interest received by the contractor pursuant to Paragraph (1) of this
2 Subsection; shall be disbursed on a prorated basis among the contractor and
3 subcontractors, each receiving a prorated portion based on the principal amount due
4 within ten business days of receipt of the interest.

5 C.(1) If a public entity, pursuant to a public contract, is the recipient of all
6 or a portion of the funding for a public works contract from another public entity or
7 the United States government, the recipient public entity shall not be subject to the
8 requirements of Paragraph (B)(1) of this Section and interest shall not begin to run
9 unless and until the public entity receives funds from the paying public entity in an
10 amount necessary to pay the applicable progressive stage payment or final payment
11 for the public works contract. However, upon receipt of funding from the paying
12 public entity, the contracting entity shall pay the contractor within five days of
13 receipt of the funds. Failure to pay without reasonable cause shall subject the
14 contracting public entity to the statutory interest provided for in Paragraph (B)(1) of
15 this Section.

16 (2) Prior to the imposition of interest in accordance with Paragraph (B)(1)
17 of this Section, the contractor shall notify the public entity, in writing, of the date
18 that the contractor claims the forty-five days began to run from the certified request
19 for payment and the date that the forty-five days from a certified request for payment
20 expires. The contractor shall also notify the public entity, in writing, on the
21 twentieth and tenth day prior to the expiration of the forty-five day request for
22 payment period. Failure of the contractor to comply with the provisions of this
23 Paragraph shall extend the imposition of interest for an additional forty-five days.

24 (3) Notwithstanding any provision of this Section to the contrary, if the
25 governor or the president of the United States declares an emergency, including but
26 not limited to a natural disaster or public health emergency, exists in this state, the
27 time limits and requirements established in this Section shall be interrupted until the
28 emergency declaration expires. Upon the expiration of the emergency declaration,
29 the time limits and requirements established in this Section shall begin anew.

1 ~~€~~ D. The provisions of this Section shall not be subject to waiver by
2 contract. However, the time limits and requirements set forth in Paragraph (B)(1)
3 of this Section may be extended by written agreement of the public entity and the
4 contractor.

5 ~~Đ~~ E. Any public entity failing to make any progressive stage payments
6 arbitrarily or without reasonable cause, or any final payment when due as provided
7 in this Section, shall be subject to mandamus to compel the payment of the sums due
8 under the contract up to the amount of the appropriation made for the award and
9 execution of the contract, including any authorized change orders.

10 ~~E~~ F. A declaration that a public works contract is null and void as being
11 contrary to the provisions of R.S. 38:2211 et seq. shall not affect amounts due and
12 payable under the contract, including overhead and profit, for the work performed
13 by or on behalf of the contractor.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 490 Original

2026 Regular Session

Kerner

Abstract: Establishes conditions under which public entities may be exempt from payment under contract requirements and from penalties for failing to make certain payments, set forth in public contracts law.

Present law relative to public contracts, works, and improvements defines "public entity" as the state, any instrumentality or political subdivision of the state, and any public housing authority, public school board, or any public officer. Defines "public contract" as any contract awarded by a public entity for the making of any public works or for the purchase of any materials or supplies. Defines "public work" as the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity.

Present law requires public entities to promptly pay all obligations arising pursuant to public contracts when the obligations become due and payable under the contract. Requires that all progressive stage payments and final payments be paid when they become due and payable under the contract. Establishes penalties for failure of a public entity to make payments as required by present law.

Proposed law provides that if a public entity, pursuant to a public contract, is the recipient of all or a portion of the funding for a public works contract from another public entity or the government of the United States, the recipient public entity shall not be subject to the payment-related conditions and penalties established in present law unless and until it receives funds from the paying public entity in an amount necessary to pay its obligations

to a contractor. Provides for notification requirements in cases in which payments to contractors are delayed for the reasons provided in proposed law.

Proposed law authorizes interruptions in the payment-related time limits and requirements provided in present law during gubernatorially or presidentially declared emergencies.

Present law stipulates that its provisions shall not be subject to waiver by contract. Proposed law retains present law and authorizes the time limits and requirements provided in present law to be extended by written agreement of the public entity and the contractor.

(Amends R.S. 38:2191(B)-(E); Adds R.S. 38:2191(F))