

SENATE BILL REPORT

SB 5333

As of January 26, 2021

Title: An act relating to void and unenforceable clauses in construction contracts related to delays caused by the COVID-19 pandemic emergency proclamations.

Brief Description: Concerning void and unenforceable clauses in construction contracts related to delays caused by the COVID-19 pandemic emergency proclamations.

Sponsors: Senators Holy and Wilson, L..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/28/21.

Brief Summary of Bill

- Prohibits clauses in construction contracts from waiving, releasing, or extinguishing the rights of a contractor to damages or an equitable adjustment arising out of a delay in performance caused by the COVID-19 pandemic emergency proclamations.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Jarrett Sacks (786-7448)

Background: In general, contract terms are enforceable under law. However, a contract term may be unenforceable if it contravenes public policy. State law provides that certain types of contracts or contract terms are against public policy and are unenforceable. For example, a provision in a public works contract with a county that requires actions arising out of the contract to be commenced in superior court of the county is against public policy and is void and unenforceable.

Under current law, any clause in a construction contract that waives, releases, or extinguishes the rights of a contractor, subcontractor, or supplier to damages or equitable

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adjustment arising out of unreasonable delay in performance caused by acts or omissions of the contractee is against public policy and is void and unenforceable.

A construction contract is any contract or agreement for construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition.

Summary of Bill: Any clause in a construction contract that waives, releases, or extinguishes the rights of a contractor, subcontractor, or supplier to damages or an equitable adjustment arising out of a delay in performance caused by the COVID-19 pandemic emergency proclamations is against public policy and void and unenforceable.

Appropriation: None.

Fiscal Note: January 22, 2021

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.