

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/CS/SB 346 — Public Construction

by Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator DiCeglie

Local Government Construction Contracts

Contracts between local governments and private contractors for construction of public projects are subject to prompt payment requirements. The Local Government Prompt Payment Act provides for timely payment by local governmental entities to construction contractors. State government public construction contracts are subject to the Florida Prompt Payment Act.

Each local government contract for construction services must provide for the development of a single list of items required to render complete, satisfactory, and acceptable construction services purchased by the local governmental entity (also called a “punch list”).

The bill requires each punch list to outline the estimated cost of each item necessary to complete the work. The local government must pay all portions of the contract balance, except for 150 percent of the portion attributed to those projects on the list within 20 days after the list is created, subject to certain exceptions. A local government must pay the contractor for the remaining list projects upon their total completion, subject to certain exceptions.

The bill limits local governments’ ability to withhold certain amounts under the contract to only those subject to a written good faith dispute or claims against public surety bonds. It also shortens the timeframes in which a disputed construction services contract must be resolved, and clarifies that a local government must pay the undisputed portions of a contract within 20 days.

Public Works Projects

Under current law, political subdivisions may impose otherwise prohibited requirements on contractors for public works projects that are paid for entirely with local funds or, if state funds are used, for projects up to \$1 million. The bill removes the ability for political subdivisions to impose such requirements on contractors for projects that use any amount of *state-appropriated funds*. Therefore, political subdivisions that pay for public works projects with any state funds cannot:

- Exclude contractors from bidding on a public works project based on their geographic location;
- Impose certain wage and employment conditions on contractors and their employees;
- Require that a contractor recruit, train, or hire employees from a designated, restricted, or single source; and
- Prohibit any contractor, subcontractor, materials supplier, or carrier from submitting a bid if the entity is qualified, licensed, or certified.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 36-0; House 83-29