

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1760

By: Representatives Flanagin & McCuiston

"AN ACT TO AMEND SECTION 3 OF ACT 159 OF 1949, AS AMENDED [ARK. STAT. 14-613] TO REQUIRE SUBCONTRACTORS ON PROJECTS EXCEEDING \$20,000.00 TO BE LICENSED BY THE STATE CONTRACTORS LICENSING BOARD; TO PROVIDE A PENALTY FOR NONCOMPLIANCE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 3 of Act 159 of 1949, as amended, the same being Arkansas Statutes 14-613, is hereby amended to read as follows:

"Section 3. (a) In each instance where the total bid amount submitted by the licensed prime contractor exceeds \$20,000.00, all prime contractors as a condition to perform construction work for and in the State of Arkansas shall use no other subcontractors except those licensed by the State Contractors Licensing Board and qualified in: (a) Mechanical (indicative of heating, air conditioning and ventilating), (b) Plumbing, (c) Electrical (indicative of wiring and illuminating fixtures), and (d) Roofing and Sheet Metal work (indicative of roofing application). In the event the prime contractor is qualified and licensed by the Arkansas State Contractors Licensing Board, he may use his own forces to perform those tasks listed herein as subcontractors in one or more of the trades listed.

When the prime contractor makes a definite decision regarding the subcontractors he intends to use, he shall place the names of each in a blank space to be provided on the Form of Proposal of his bid, and he shall also place the name and amount of each of the above listed subcontractors including his own estimate of that portion of the work where he lists himself as a subcontractor in a separate sealed envelope to accompany the proposal, which separate envelope shall be marked 'Subcontractor's Bids' of the prime contractor submitting the proposal. This separate sealed envelope is not to be

opened unless one (1) or more of the subcontractors named by the prime contractor in his successful bid thereafter refuses in writing to perform his contract, or offered contract, in which event the prime contractor may substitute another subcontractor, licensed by the Arkansas State Contractors Licensing Board, after having obtained prior approval from the architect/engineer, owner and the Office of Construction of State Building Services, provided further, the prime contractor shall submit written evidence that the substituted contractor is costing the same amount of money as shown in said separate sealed envelope or less, and if costing less, that the savings will be deducted from the total contract of said prime contractor and rebated to the owner. It shall be mandatory that the (a) mechanical, (b) plumbing, (c) electrical, and (d) roofing and sheet metal subcontractors named on the Form of Proposal by the prime contractor awarded a contract under the provision of this Act be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named.

(b) Any prime contractor who submits a bid, contracts or lists unlicensed subcontractors or uses an unlicensed subcontractor, shall upon conviction, be guilty of a Class A misdemeanor, and shall be fined not to exceed \$1,000.00 and/or suspended from bidding future public works contracts for a term not less than six (6) months nor more than twelve (12) months."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. It is hereby found and declared that because of the large volume of proposed construction by taxing agencies and the confusion that now exists on a large scale concerning the handling of subcontractor bids, to the detriment of contractors, subcontractors, the taxing agencies and the public, that the clarification made by this Act is immediately needed to eliminate said confusion and resulting harmful effects on the public peace, health, safety and welfare. By reason thereof, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval.

