

## **BILL ANALYSIS**

Senate Research Center  
80R18776 JTS-F

C.S.H.B. 2075  
By: Krusee (Nichols)  
Transportation & Homeland Security  
5/7/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law requires the Texas Department of Transportation (TxDOT) to retain five percent of the contract price for a highway project until the entire improvement has been completed and accepted. The purpose of this retention is to ensure that all bills on a project are paid, and that if an excess payment is made by TxDOT, TxDOT has a mechanism to recoup the funds at the end of a project. However, the stability of performance and payment bonds has eliminated the need for retainage. Such bonds provide a full guaranty that all bills are paid and quantities adjusted at the end of a project.

C.S.H.B. 2075 authorizes TxDOT, on projects that are solely funded by the state, to mirror the provision for no retainage that currently applies to federally-aided work.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 223.009, Transportation Code, to delete existing text prohibiting the aggregate amount of payments at any time from exceeding 95 percent of the value of the work done.

SECTION 2. Amends Section 223.010(a), Transportation Code, to authorize the Department of Transportation (TxDOT) to retain up to five percent of the contract price and to continue retaining that amount until the entire improvement has been completed and accepted or release the retained amount at any time before the improvement is accepted. Deletes existing text requiring five percent of the contract price to be retained until those conditions are met. Makes a conforming deletion.

SECTION 3. Repealer: Section 223.010(h) (requiring four percent of the contract price to be retained until the entire improvement has been completed and accepted on any contract that includes the use of recycled materials), Section 223.010(i) (authorizing TxDOT to release a portion of the amount, no more than is sufficient to ensure compliance with the contract, retained under Subsection (a) at the time construction of the improvement is completed), and Section 223.011 (Partial Payment Exception; Maintenance and Preconstruction Contracts), Transportation Code.

SECTION 4. Effective date: upon passage or September 1, 2007.