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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 262  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Blessing

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### SUMMARY

- Requires that when a public construction contract uses an industry standard form, if there are any changes to the standard terms, the contract must indicate that fact.

### DETAILED ANALYSIS

The bill adds a new procedural requirement for the language of public construction contracts, other than contracts let by the Department of Transportation for roads, highways, and bridges. The bill applies only to new contracts entered into on or after the bill's effective date.

Under the bill, when a public authority enters into a construction contract using an industry standard published form, the public authority must indicate any alterations made to the form language by striking or underlining or by adding cross-references to any supplemental conditions. If the alterations are not so indicated, the alterations are void and the terms found on the standard form apply to the agreement. The example below illustrates an invalid change, versus a valid change, to a standard contract form under the bill:

Industry standard form	Contract with invalid change	Contract with valid change
"The owner of the property has 60 days to inform the contractor of any faulty work."	"The owner of the property has 90 days to inform the contractor of any faulty work."  <i>The change to the standard form is not indicated. As a result, the contract must be read to say 60 days, not 90 days.</i>	"The owner of the property has <del>60</del> <u>90</u> days to inform the contractor of any faulty work."  <i>The change to the standard form is indicated as required by the bill and can be enforced.</i>

Specifically, the bill's requirement applies to (1) a contract between a public authority and a construction manager under R.C. 9.33 through 9.335 and (2) a contract between a public authority and a construction manager or design-build firm under R.C. Chapter 153. Those laws apply broadly to the construction and alteration of public works by state and local government entities and state institutions of higher education. However, the Director of Transportation is exempt with respect to road, highway, and bridge projects.<sup>1</sup>

The bill further specifies that the Ohio Facilities Construction Commission must adopt rules under the Administrative Procedure Act to require that a public authority, construction manager at risk, design-build firm, or general contracting firm that uses a prescribed industry standard published contract or subcontract form comply with the bill's requirements. These rules ensure that the standard also applies when the contractor provides the form instead of the public authority.<sup>2</sup>

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## HISTORY

Action	Date
Introduced	09-16-25

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<sup>1</sup> R.C. 9.334, 153.12, 153.501, and 153.693; Section 3 of the bill. See also R.C. 9.33(F)(2) and 153.01(B)(2), not in the bill.

<sup>2</sup> R.C. 153.503.