An Act relating to public building and public works; amending 61 O.S. 2011, Sections 113.1 and 226, which relate to public construction contracts; exempting certain contracts from retainage; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 61 O.S. 2011, Section 113.1, is amended to read as follows:

Section 113.1 A. A public construction contract shall provide for partial payment based upon work completed. The contract shall not subject to a bond pursuant to Section 1 of this title may provide that up to five percent (5%) of all partial payments made shall be withheld as retainage.

B. The Department of Transportation or the Oklahoma Turnpike Authority shall not withhold retainage on public construction contracts awarded by the Department or the Authority.
C. The Department of Transportation shall not withhold retainage or require any bond on projects awarded to railroads on the railroad's privately owned or operated rail property.

SECTION 2. AMENDATORY  61 O.S. 2011, Section 226, is amended to read as follows:

Section 226. A. A construction contract not subject to a bond pursuant to Section 1 of this title may include a provision for the retainage of a portion of payment due. Such retainage is not to exceed five percent (5%) of the amount of the payment due.

B. A subcontract not subject to a bond pursuant to Section 1 of this title may include a provision for the retainage of a portion of payment due. Such retainage is not to exceed five percent (5%) of the amount of the payment due.

C. No later than twenty-one (21) calendar days after a certificate of substantial completion is issued for the project or separate usable phase of the project and upon adequate performance of the prime contractor and with approval of any applicable surety, retainage shall be released by the owner to the prime contractor less an amount no greater than one hundred fifty percent (150%) of the estimated costs to correct any incomplete or defective work as identified, itemized, and attached to the certificate of substantial completion. All remaining funds shall be released as each deficiency is satisfactorily completed. The prime contractor shall release within ten (10) calendar days of receipt, the share of those
funds that have been withheld from other entities. All other entities shall release within seven (7) calendar days of receipt, the share of those funds that have been withheld from other entities.

SECTION 3. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2017 – DO PASS, As Coauthored.