

these sections - which is basically unchanged from that presently in Article 41 - is not so clearly limited and, literally, seems to apply to all using authority contracts for architectural or engineering services, even those for \$25,000 and less. Since a change of this wording might result in a substantive change, none has been made by the Commission. However, further clarifying legislation would be appropriate.

231Z. COST-PLUS-A-PERCENTAGE-OF-COST CONTRACTS.

(A) CONTRACTS PROHIBITED.

THE COST-PLUS-A-PERCENTAGE-OF-COST TYPE OF CONTRACT MAY NOT BE USED.

(B) CERTAIN FEE SCHEDULES PROHIBITED.

FEE SCHEDULES THAT ARE BASED ON A PERCENTAGE OF CONSTRUCTION COSTS OF CONTRACTS RESULTING FROM COMPLETED DESIGNS PREPARED BY ARCHITECTURAL OR ENGINEERING FIRMS MAY NOT BE USED.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 41, §231T.

In subsection (a) of this section, the present introductory phrase "{i}n order to prevent increased cost..." is deleted as unnecessary.

As to the uncertain scope of this section, see the discussion in the revisor's note to §231Z of this subtitle.

231AA. CONTINGENT FEES PROHIBITED.

(A) CONTRACT TO CONTAIN SPECIFIED PROHIBITION.

EACH CONTRACT FOR ARCHITECTURAL OR ENGINEERING SERVICES SHALL CONTAIN A PROHIBITION AGAINST CONTINGENT FEES AS FOLLOWS: "THE ARCHITECT OR ENGINEER (AS APPLICABLE) WARRANTS THAT HE HAS NOT EMPLOYED OR RETAINED ANY PERSON, PARTNERSHIP, CORPORATION, OR OTHER ENTITY, OTHER THAN A BONA FIDE EMPLOYEE OR AGENT WORKING FOR THE ARCHITECT OR ENGINEER, TO SOLICIT OR SECURE THIS AGREEMENT, AND THAT HE HAS NOT PAID OR AGREED TO PAY ANY PERSON, PARTNERSHIP, CORPORATION, OR OTHER ENTITY, OTHER THAN A BONA FIDE EMPLOYEE OR AGENT, ANY FEE OR ANY OTHER CONSIDERATION CONTINGENT ON THE MAKING OF THIS AGREEMENT".

(B) CONTINGENT FEE PROHIBITED IN PROCURING A CONTRACT.

UNLESS HE IS A BONA FIDE EMPLOYEE OR AGENT WORKING