HB 2415 A -A5   STAFF MEASURE SUMMARY

Senate Committee On Business and General Government

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Meeting Dates:	4/30, 5/9

WHAT THE MEASURE DOES:

Requires retainage to be held in interest-bearing account if contract price exceeds $500,000, with interest accruing from date payment request is approved, and with interest paid to the contractor or subcontractor to which it is due. Applies to public and private construction contracts entered into on or before effective date.

ISSUES DISCUSSED:

* Examples of retainage not remitted to subcontractors

EFFECT OF AMENDMENT:

-A5 Requires interest-bearing retainage account for public and private contracts to also be escrow account.

BACKGROUND:

Retainage is a portion of the agreed upon contract price deliberately withheld until the work is substantially complete to ensure the contractor will satisfy its obligations under the contract. Current statute requires the contracting agency for a public improvement contract to make monthly progress payments, and allows the contracting agency to withhold up to five percent of the progress payment as retainage. Upon written request from the contractor and approval of the contractor's surety, the contracting agency may reduce or eliminate retainage on any monthly contract payments after 50 percent of the contracted work is completed. The agency may reduce or eliminate retainage at its own discretion after 97.5 percent of the contracted work is complete. Any retainage held by the contracting agency must be paid to the contractor as part of the final payment with interest of one and a half percent per month.

For private contracts, an owner, contractor, or subcontractor may withhold up to five percent of the contract price as retainage. Any retainage must be paid to the contractor with the final payment with interest of one percent per month.

House Bill 2415-A requires the public or private contracting party to place retainage in an interest-bearing account when the contract price exceeds $500,000.