

HB 2415 B STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

Prepared By: Haylee Morse-Miller, Fiscal Analyst

Meeting Dates: 5/30, 6/7

WHAT THE MEASURE DOES:

Requires a contracting agency, if a contract price exceeds \$500,000, to place amounts deducted as retainage into an interest-bearing escrow account. Interest on the retainage amount would accrue from the date the payment request is approved until the date that the retainage is paid to the contractor to which it is due. Requires an owner, contractor, or subcontractor, if a contract price exceeds \$500,000, to place amounts withheld as retainage into an interest-bearing escrow account. Interest on the retainage amount would accrue from the date the payment request is approved until the date that the retainage is paid to the contractor or subcontractor to which it is due. Applies to contracts entered into on or after January 1, 2020. Takes effect on January 1, 2020.

ISSUES DISCUSSED:

- Fiscal impact of this measure
- Changes between House and Senate amendments to bill

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Retainage is a portion of the agreed upon contract price deliberately withheld until the work is substantially complete to ensure a contractor will satisfy its obligations under a construction contract. With respect to public contracting, a contracting agency may reserve as retainage from a progress payment an amount no greater than five percent of the payment. Upon a written request by the contractor and approval by the contractor's surety, the contracting agency may choose to reduce the amount retained and, after 50 percent of the work is completed, the agency may choose to eliminate the retainage. Once 97.5 percent of the work is complete, the contracting agency may use its discretion to reduce the retained amount to 100 percent of the value of the work yet to be completed. Retainage held by the contracting agency must be paid to the contractor as part of the final payment and interest earned on money retained is due to the contractor. Five percent retainage is allowed on private projects.

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 a construction 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.

Requires the public or private contracting party to place retainage in an interest-bearing escrow account when the contract price exceeds \$500,000.