

**HB 2415 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Barreto

**House Committee On Business and Labor**

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**Action Date:** 04/08/19

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 9-2-0-0

**Yeas:** 9 - Barker, Barreto, Boles, Bynum, Clem, Doherty, Evans, Fahey, Holvey

**Nays:** 2 - Bonham, Boshart Davis

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 2/20, 4/8

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**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:**

- Broad changes to retainage policy proposed in original version of measure
- Role retainage plays to ensure project is completed
- Subcontractors assertion that interest on retainage is not being paid
- Narrow profit margin of subcontractors
- Frustration subcontractors experience in determining deficiency of work that allows retainage to be held
- Prompt pay pilot program within Oregon Department of Transportation (House Bill 3264, 2017)
- Reluctance of subcontractor to pushback for fear of damaging relationship with general contractor

**EFFECT OF AMENDMENT:**

Replaces measure.

**BACKGROUND:**

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.

House Bill 2415-A requires retainage be held in an interest-bearing account with interest paid to the contractor or subcontractor to which retainage is due if the contract price exceeds \$500,000. This applies to both public and private construction contracts.