

HB 2415 B STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow

Senate Committee On Business and General Government

Action Date: 05/09/19

Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

Vote: 3-0-0-2

Yeas: 3 - Dembrow, Hass, Riley

Abs: 2 - Girod, Olsen

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 4/30, 5/9

WHAT THE MEASURE DOES:

Requires retainage to be held in interest-bearing escrow 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.

Applies to public and private construction contracts entered into on or after effective date.

ISSUES DISCUSSED:

- Current retainage regulations
- Need for attorneys to review construction contracts and file civil litigation claims to collect unpaid retainage
- Impact of unpaid or delayed retainage payments on contractors
- Potential impact of placing retainage in escrow account

EFFECT OF AMENDMENT:

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