
State Government Committee

HB 2521

Brief Description: Requiring prime contractors to bond the subcontractors portion of retainage upon request.

Sponsors: Representatives Haigh, Armstrong, Miloscia, Nixon, Hunt, Shabro, McDermott, Moeller and Chase.

Brief Summary of Bill

- Subcontractors employed on public projects requiring a retainage fee may request the contractor to submit a bond equal to the subcontractor's retainage requirement to the public owner.

Hearing Date: 1/28/04

Staff: Marsha Reilly (786-7135).

Background:

Most public works contracts are subject to retainage requirements, where the public entity retains up to five percent of the contract amount from the general contractor for 45 days after completion of the project. The retained funds are used as a trust fund for the payment of claims arising under the contract by laborers, subcontractors, material, men, and excise taxes that may be due from the contractor. Persons performing labor or furnishing supplies also may obtain a lien on the money reserved by the awarding entity, but must make claim within 45 days of contract completion.

A contractor or subcontractor may also retain payment, of not more than five percent, from moneys earned by any subcontractor or supplier of the original contractor or subcontractor. Any interest earned on the retained funds are split equally between the parties.

A contractor may submit a bond for all or part of the retainage in a form acceptable to the public body and from a bonding company meeting the standards established by the public body. The public body must accept the bond unless it can demonstrate good cause for refusal. The bond is subject to the claims and liens arising under the contract in the same manner as the retainage is subject to the claims and liens.

Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor must accept like bonds from its subcontractors or suppliers.

Summary of Bill:

Subcontractors may request contractors to submit a bond of its portion of retainage to the public body. The bond must be in a form acceptable to the public body and be from a bonding company meeting the standards established by the public body. The public body must accept the bond unless it can demonstrate good cause for refusing it, or if the subcontractor refuses to pay its portion of the bond premium and provide the contractor with a like bond.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.