
State Government Committee

HB 2698

Brief Description: Creating a public body right to retained funds under public improvement contracts.

Sponsors: Representative Rockefeller.

Brief Summary of Bill

- Creates public body right to retained funds under public improvement contracts.

Hearing Date: 1/28/04

Staff: Matt Kuehn (786-7291).

Background:

Where a public body contracts for public improvements or work, the public body may retain a portion of the money until after the contractor completes the work. States, counties, cities, towns, districts, boards or other public bodies (collectively termed "public bodies" in the statute), reserve and retain a sum no more than 5 percent of the money earned by the contractor as a trust fund. This trust fund protects laborers, subcontractors and ancillary suppliers carrying out work on the contract, as well as the state for any excise taxes which may be due from the contractor.

Every person performing labor or furnishing supplies has a lien upon the retained money. If there is no claim, the retained money is released to the contractor after the completion and acceptance of the project. If there is a claim on the retained funds, the wages of the contractor's employees, successors or assignees have the first priority. The next highest claim priority are state excise taxes of over \$20,000 owed by the contractor. If those claims are satisfied or do not exist, then all other taxes, increases, and penalties owed by the contractor can be addressed.

Summary of Bill:

Public bodies, as defined by the statute, are added to the list of those who are protected and have a right to the retained trust fund money. The public body party to the contract then may assert a claim/lien to a portion of the money retained from the contractor.

The right to the retained funds exists for all public bodies contracting for any public improvement or work. The contractor's employees, successors or assignees who were not paid the prevailing wage for their services have the first priority lien on the retained funds, followed by excise taxes

of over \$20,000. The public body then has a right on the retained money, followed by all other taxes, increases and penalties owed by the contractor.

Appropriation: None.

Fiscal Note: Not requested.

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