

SCS SB 529 -- PUBLIC WORKS CONTRACTS AND PROJECTS

This bill changes the laws regarding public works contracts and public works projects.

Currently, a public works project contract made by a political subdivision for a public works project must provide prompt payment to the contractor and progress payments on a monthly or lump sum basis according to the terms of the contract. The bill requires prompt payment and progress payments to also be provided to the professional engineers, architects, landscape architects, and land surveyors.

Currently, a public owner may retain 5% of the value of a public works contract or up to 10% if it is determined by the public owner and the architect or engineer that a higher rate is required to ensure performance. The bill specifies that a public owner may retain up to 10% if the contractor is not required to obtain a bond because the contract is not estimated to exceed \$50,000.

Currently, retainage may be adjusted prior to completion when work is proceeding satisfactorily and retainage is paid after substantial completion of the contract or per contract terms. In these cases, 200% of the value of the remaining work must be withheld until completion. The bill specifies that 150% of the value must be withheld until completion.

Currently, the public owner must pay the retainage after substantial completion of the work or as provided per contract to the contractor for state highway road or bridge projects administered by the State Highways and Transportation Commission. The bill requires the owner to pay at least 98% of the retainage to the contractor and the contractor to pay subcontractors and suppliers after substantial completion or as provided in the contract.

If the owner determines that the work is not substantially completed, the owner must provide a written explanation within 14 days to the contractor. The contractor is then required to provide the notice to any subcontractor or suppliers responsible. If the explanation is not given by the public body, the public body must pay at least 98% of the retainage within 30 days.

Currently, a contractor must pay a subcontractor or supplier when he or she receives payment less any retention not to exceed 10%. The bill lowers the retention to not more than 5%.

Currently, when the public owner does not release full payment due because there are specific areas of work or materials the owner is

rejecting, the subcontractors or suppliers involved are not paid for the rejected work. The bill specifies that the subcontractors or suppliers do not have to be paid if the owner gives a written explanation as to why the work or supplies were rejected.

The public owner must include any withheld retainage with final payment of moneys owed to the contractor within 30 days of the due date. The public owner must pay any professional engineer, architect, landscape architect, or land surveyor the amount due within 30 days after receiving an invoice. If full payment is not made, the contracting agency must pay 1.5% interest per month until fully paid.

Currently, public owners must require contractors on public works projects to furnish a bond when the estimated cost of the project exceeds \$25,000. The bill changes that amount to \$50,000.