

**STATE
FISCAL IMPACT**

Drafting Number: LLS 14-0445	Date: February 3, 2014
Prime Sponsor(s): Rep. Fischer Sen. Tochtrop	Bill Status: House Business, Labor, Economic, and Workforce Development
	Fiscal Analyst: Alex Schatz (303-866-4375)

SHORT TITLE: PRIVATE CONSTRUCTION CONTRACT RETAINAGE & PAYMENTS

Fiscal Impact Summary	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Minimal workload increase.	
FTE Position Change		
Appropriation Required: None		

** This summary shows changes from current law under the bill for each fiscal year.*

Summary of Legislation

The bill requires 95 percent of all costs under a construction contract to be paid at the time they are invoiced and due according to the contractual payment schedule. Any party that withholds funds (retainage) in excess of five percent of the amount due is liable in a civil action for release of the excess withheld plus interest and legal expenses. The bill does not apply to projects with a total contract value less than \$150,000, contracts concerning residential buildings with four or fewer dwelling units, and construction contracts with a public entity.

Background

Retainage, a common feature of commercial construction contracts, is a portion of the agreed upon contract price deliberately withheld until the work is substantially complete. Retainage is intended to assure that a contractor or subcontractor satisfies all obligations and completes a construction project.

Under current law, owners and general contractors may retain more than five percent of invoiced amounts, and many commercial contracts include provisions that result in higher retainage. Construction disputes heard in Colorado courts include cases in which a contractor or subcontractor alleges that retainage was wrongfully withheld.

State Expenditures

Workload in the courts will increase as the bill becomes effective for private construction agreements, potentially increasing the number of cases as well as the number of issues presented in the current caseload of the courts. Courts will enforce retainage limits and void contractual provisions contrary to the bill. The resulting increase in workload for the Judicial Department is minimal and does not require new appropriations.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to contracts executed on the effective date or thereafter.

State and Local Government Contacts

Judicial Branch
Transportation
Municipalities
Counties

Personnel and Administration
Regional Transportation District
Special Districts
Local Affairs

Law
Corrections
Education