

# HOUSE BILL REPORT

## SHB 2659

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*As Passed Legislature*

**Title:** An act relating to the retained percentage from a public works contract held in trust for labor and material liens and for the protection of the owner.

**Brief Description:** Concerning public works contracts.

**Sponsor(s):** By House Committee on Local Government (originally sponsored by Representatives Cooper, Haugen, Ferguson, Rayburn, Wynne, Zellinsky, Horn, Bray and Wood).

**Brief History:**

Reported by House Committee on:  
Local Government, February 7, 1992, DPS;  
Passed House, February 13, 1992, 96-0;  
Amended by Senate;  
Passed Legislature.

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**HOUSE COMMITTEE ON  
LOCAL GOVERNMENT**

**Majority Report:** *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 13 members: Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson; Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Edmondson; Franklin; Horn; Nealey; Nelson; Rayburn; Roland; and Wynne.

**Staff:** Bill Lynch (786-7092).

**Background:** The state and each county, city, town, district, board, or other public body must reserve, from the moneys earned by a contractor on a public improvement contract, an amount to ensure that all labor, materials, and taxes will be paid. The amount of contract retainage that a public body may reserve cannot exceed 5 percent of the moneys earned by the contractor. Any laborer or materialperson has a lien on this retainage.

Whenever 50 percent of the original contract work is completed, the public body may make partial payments to the contractor, but the public body must always retain at least 5 percent of the moneys earned by the contractor. The contractor may, however, request that the retainage be reduced to 100 percent of the value of the work remaining on

the contract. The public body may release the contract retainage 30 days after the work is completed and accepted.

It has been suggested that the language governing contract retainage reserved by public bodies from the earnings of contractors should be simplified.

There is no specific statutory prohibition against a public body reserving moneys earned by a contractor under a public works contract for purposes other than to ensure payment of labor, materials, and taxes.

**Summary of Bill:** The language governing contract retainage reserved by public bodies from the earnings of contractors to ensure payment of labor, materials, and taxes is simplified. The requirement that at least 50 percent of the original contract work must be completed before any contract retainage is released is eliminated.

A public body cannot reserve moneys earned by a contractor who is fulfilling his or her responsibilities under a public improvement contract for any purpose other than to ensure payment of labor, materials, and taxes.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This helps clarify existing law that contract retainage is 5 percent, and may only be used to ensure the payment of labor, materialpersons, and taxes.

**Testimony Against:** None.

**Witnesses:** Duke Schaub, Association of General Contractors (supports); Larry Stevens, United Subcontractors Association (supports with amendments); and Jim Bush, Department of Transportation.