

GENERAL LAW COMMITTEE

PUBLIC HEARING 3/3/16- 2PM LOB 2E

TESTIMONY - Bill No. HB 5328 – AAC Public Work Contract Retainage and Enforcement of the Right to Payment on a Bond.

Submitted by: Joyce A. Wojtas, Lobbyist – Mechanical Contractors Association of CT(MCAC)

On behalf of the members of the MCAC, I would like to go on record in support of HB 5328 which reduces retainage on DAS and other state agency public works contracts from 10% to not more than five (5) percent and also strengthens the payment bond provisions by requiring the surety that fails to pay a legitimate claim within the time allowed to indemnify the claimants attorneys' fees and costs.

History on Retainage (as I recall):

1987 - PA 87-575 reduced DOT retainage from 10% to 5%. FHWA, who provided 75-90% of Federal matching funds for highway and bridge projects, issued a directive if a state had retainage, they would withhold retainage and DOT agreed to 5%. Municipal retainage was also reduced to 5%.

1987-1996??? – DOT started retaining not more than 2 ½ % on its own.

1996 - PA 96-235 changed the DPW (now DAS) and other agency retainage on contracts - between 7/1/96 and 6/30/99 retainage would be not more than 10% and required the DPW to establish an early release program for periodic payments. After July 1, 1999 retainage was reduced to not less than 2 ½ % on DPW and other agency contracts. Municipal retainage remained at 5%.

1998 – PA 98-222 changed the DPW and other agency retainage on contracts to not more than 10% and made a statutory provision for DOT retainage at 2 ½%. Municipal retainage remained at 5%.

2003 – PA 03-167 established a new law governing private contracts and provided that not more than 7 ½ % retainage be withheld from contracts. (This was negotiated with G.C's and Subs)

2010 - PA 10-148 reduced retainage on private contracts to 5%.

2016 - DAS/Agencies – 10% DOT- 2 ½% Municipal – 5% Private – 5%

DAS has General Conditions which provide for reduced retainage at 50% completion, but this is one of 39 conditions that add to more work for all parties. Contractors and subcontractors deserve a break.

In today's economy, contractors, subcontractors and suppliers cannot afford to have 10% of their hard-earned dollars withheld until FINAL ACCEPTANCE AND COMPLETION OF THE PROJECT. If a project is not going well, the agency has the power to withhold progress or partial payments until things get fixed. These provisions hurt all, especially small businesses. Surety companies should pay up as required by law for legitimate claims. Please support this bill. Thank you.

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