

ASSEMBLY BILL

No. 411

Introduced by Assembly Member Yee

February 15, 2005

An act to amend Section 10262.5 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as introduced, Yee. Public contracts: prompt payment process.

Existing law relating to contracting by state agencies requires a prime contractor or subcontractor to pay any subcontractor, not later than 10 days from receipt of each progress payment, the respective amounts allowed the contractor on account of the work performed by the subcontractors, as specified.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10262.5 of the Public Contract Code is
2 amended to read:
3 10262.5. (a) Notwithstanding any other ~~provision of~~ law, a
4 prime contractor or subcontractor shall pay to any subcontractor,
5 not later than 10 days ~~of~~ *from* receipt of each progress payment,
6 the respective amounts allowed the contractor on account of the
7 work performed by the subcontractors, to the extent of each
8 subcontractor's interest therein. In the event that there is a good

1 faith dispute over all or any portion of the amount due on a
2 progress payment from the prime contractor or subcontractor to a
3 subcontractor, then the prime contractor or subcontractor may
4 withhold no more than 150 percent of the disputed amount.

5 Any contractor who violates this section shall pay to the
6 subcontractor a penalty of 2 percent of the amount due per month
7 for every month that payment is not made. In any action for the
8 collection of funds wrongfully withheld, the prevailing party
9 shall be entitled to his or her attorney's fees and costs.

10 (b) This section shall not be construed to limit or impair any
11 contractual, administrative, or judicial—~~remedies~~ *remedy*
12 otherwise available to a contractor or a subcontractor in the event
13 of a dispute involving late payment or nonpayment by a
14 contractor or deficient subcontract performance or
15 nonperformance by a subcontractor.

16 (c) On or before September 1 of each year, the head of each
17 state agency shall submit to the Legislature a report on the
18 number and dollar volume of written complaints received from
19 subcontractors and prime contractors on contracts in excess of
20 three hundred thousand dollars (\$300,000), relating to violations
21 of this section.