

ASSEMBLY BILL

No. 1671

Introduced by Assembly Member Huffman

February 14, 2012

An act to amend Section 7202 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1671, as introduced, Huffman. Department of Transportation: retention proceeds.

Existing law prohibits the Department of Transportation, until January 1, 2014, from withholding retention proceeds when making progress payments for work performed by a contractor.

This bill would make these provisions operative until January 1, 2020. The bill would also make a statement of legislative findings.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) California's construction industry has experienced one of
- 4 the worst economic downturns in its history.
- 5 (2) Unemployment within California's construction industry
- 6 has exceeded 30 percent or more statewide.
- 7 (3) The California Department of Transportation (Caltrans)
- 8 remains one of the few areas in public works that continues to
- 9 actively request bids for numerous construction projects statewide.

1 (4) These projects have had, and will continue to have, a
2 significant positive impact on employment within the construction
3 industry.

4 (5) Much of Caltrans’ work is funded through federal moneys
5 which already stipulate that 0-percent retentions can be withheld
6 on all passthrough funding.

7 (6) Zero-percent retentions have had such a positive impact on
8 contractor viability and, in turn, employment particularly during
9 these extremely competitive times.

10 (7) Increased competition through the viability of contractors
11 that have benefited from 0-percent retentions ensures that Caltrans
12 receives the best prices on all of its construction work.

13 (8) Extending the operation of 0-percent retentions on
14 transportation contracts provides confidence within California’s
15 construction industry to continue working with Caltrans on projects
16 to help rebuild California’s infrastructure.

17 SEC. 2. Section 7202 of the Public Contract Code is amended
18 to read:

19 7202. (a) The Department of Transportation is prohibited from
20 withholding retention proceeds when making progress payments
21 to a contractor for work performed on a transportation project.

22 (b) Nothing in this section shall alter, amend, or impair the
23 rights, duties, and obligations of an original contractor, its
24 subcontractors, and all subcontractors thereunder, relating to the
25 construction of any public work of improvement as set forth in
26 Section 7200 of the Public Contract Code.

27 (c) The department shall promptly notify the appropriate policy
28 committees of the Legislature if the state’s best interests are
29 compromised because retention was not withheld on a
30 transportation project.

31 (d) This section shall become inoperative and shall be repealed
32 on January 1, ~~2014~~ 2020.