

Reduction in Retainage Fees (HB 101 Rep. Andrade/SB 246 Sen. Hooper)

The current retainage rate on public construction in Florida is 10% of every progress payment until the project is 50% complete, (as defined in the contract), at which point retainage is reduced to 5% of every progress payment. This legislation would reduce the initial rate of retainage to 5% and keep it at that rate for the duration of the project. After conducting national research, this change to a flat rate of retainage is in line with current market trends, would provide relief to the industry, but would also provide administrative relief to the public entity that oversees and tracks invoices and retainage payments throughout the duration of a project.

Even under the Prompt Pay Statute, public entities can be slow to pay on public construction projects. When you combine the slow pay structure with the permissible withholding of retainage on monthly progress payments, you end up with a real cash flow problem for smaller General and Specialty Contractors. With more and more local governments emphasizing the importance of exposing small and emerging businesses to these public opportunities, you find yourself in a market where public projects are consistently seeing cash flow issues.

Chapter 558 Construction Defects

Florida Statute 558 was originally passed as an alternative dispute resolution option for owners and contractors. Proponents longed for the opportunity for contractors and owners could have an honest discourse about alleged defects on a completed project without the immediate need to involve attorneys and insurance. Since 2003 however, this statute has been amended over and over and now again reflects the frustrations proponents originally sought to address with its initial passage. More and more, 558 claims are immediately involving attorneys and insurance companies from the initial receipt of the 558 notice and the industry now feels like they are in a situation where they are going to court twice.

Continuing Contracts Under CCNA (HB 441 Rep. DiCeglie/SB 506 Sen. Perry)

287.055 FS is commonly known as the Consultants' Competitive Negotiation Act. Very generally, CCNA governs the process by which public entities procure certain architectural, landscaping, engineering and surveying services. It also applies indirectly to the process for procuring design-build and construction management contracts. Our interest in CCNA specifically deals with the option for public entities to bid out continuing contracts. Under current statute, public entities are allowed to bid out continuing contracts for professional services where the construction cost of each individual project under the continuing contract does not exceed \$2 million dollars. The benefit of a continuing contract is that it allows public entities to directly select a firm for professional services without having to go through the RFQ process for every public project. Continuing contracts ultimately save a public entity both time and money in managing their procurement processes. Our requested change would be to increase the \$2 million threshold to \$5 million. It has been many years since that dollar amount was established, and we believe tying that amount to a fiscal constant would ensure that the threshold amount reflects the economy and industry trends and pricing on an annual basis.

Continued Apprenticeship Reforms

The 2019 Legislative Session saw a number of comprehensive reforms in the areas of Apprenticeship and Workforce Education reforms. While ABC is appreciative of the conversations surrounding the importance of CTE opportunities in K-12, increased transparency with workforce funding, and the option for career tracks in high school, as the largest single provider of Apprenticeship education in the state, we know there is more that can be done. We look forward to continuing the conversation on direct funding opportunities between the Department of Education and Apprenticeship program providers. We also look forward to highlighting the importance of marketing career in construction opportunities. We continue to suffer from the largest skilled worker shortage in recent history and need all the help we can get to identify our next generation of industry professionals in Florida.

For More Information Contact:

Carol Bowen, Chief Lobbyist
(954) 465-6811
cbowen@abceastflorida.com

