

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1623-01
Bill No.: HB 662
Subject: Banks & Financial Institutions; Contracts & Contractors; Property-Real & Personal
Type: Original
Date: February 20, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 3 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Economic Development–Division of Finance** assume the proposal will have no fiscal impact on their agency.

In response to previous similar legislation, officials with the **Office of State Courts Administrator** assumed no fiscal impact to the judiciary.

Officials with the **Office of the Attorney General** did not respond to our fiscal note request. **Oversight** assumes any additional responsibilities could be absorbed by existing staff.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses operating as contractors or subcontractors, or businesses utilizing contractors.

DESCRIPTION

This bill creates several requirements and restrictions involving "retainage," the practice of withholding a percentage of the payment for a construction project, pending satisfactory completion of the project. The bill limits retainage to 5% of the contract. The contractor may give the owner a substitute security and demand payment of the retainage. Subcontractors may do the same with contractors. The bill sets forth the types of securities that will satisfy the requirement, including bonds, certificates of deposit, and unconditional letters of credit. Contractors are entitled to any income earned from the securities while deposited with the owner. Contractors may not withhold extra retainage from a subcontractor, unless the subcontractor's performance is not in accordance with the terms of the subcontract. Contractors must pass along to any subcontractors the retainage they are paid on a pro rata basis. Construction contracts will be unenforceable to the extent that they are inconsistent with the requirements of the bill. Courts may award 18% interest on improperly withheld retainage and may award attorney's fees in

DESCRIPTION (continued)

actions to enforce the bill. Contracts for the construction of residential buildings with 4 or fewer units are exempt from the bill.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
Division of Finance

NOT RESPONDING

Office of the Attorney General
Office of State Courts Administrator



Jeanne Jarrett, CPA
Director

February 20, 2001