

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Local Administration,
 2 Federal Affairs & Special Districts Subcommittee
 3 Representative Griffitts offered the following:

Amendment

6 Remove lines 30-213 and insert:
 7 purchased by the local governmental entity, which must include a
 8 dollar valuation, as reasonably determined by the contractor as
 9 a portion of the contract value, of the estimated cost to
 10 complete each item.

11 (a) The contract must specify the process for developing
 12 the list, including the responsibilities of the local
 13 governmental entity and the contractor in developing and
 14 reviewing the list and a reasonable time for developing the
 15 list:

16 1. For construction projects having an estimated cost of

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17 Less than \$10 million, within 30 calendar days after reaching
18 substantial completion of the construction services purchased as
19 defined in the contract, or, if not defined in the contract,
20 upon reaching beneficial occupancy or use; or

21 2. For construction projects having an estimated cost of
22 \$10 million or more, within 30 calendar days, ~~or, if extended by~~
23 ~~contract, up to 60 calendar days~~ after reaching substantial
24 completion of the construction services purchased as defined in
25 the contract, or, if not defined in the contract, upon reaching
26 beneficial occupancy or use.

27
28 The contract must also specify a date for the delivery of the
29 list of items, not to exceed 5 days after the list of items has
30 been developed and reviewed in accordance with the time periods
31 set forth in subparagraphs 1. and 2.

32 (b) If the contract between the local governmental entity
33 and the contractor relates to the purchase of construction
34 services on more than one building or structure, or involves a
35 multiphased project, the contract must provide for the
36 development of a list of items required to render complete,
37 satisfactory, and acceptable all the construction services
38 purchased pursuant to the contract for each building, structure,
39 or phase of the project within the time limitations provided in
40 paragraph (a).

41 (c) The final contract completion date must be at least 30

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42 days after the delivery of the list of items. If the list is not
43 provided to the contractor by the agreed upon date for delivery
44 of the list, the contract time for completion must be extended
45 by the number of days the local governmental entity exceeded the
46 delivery date. Damages may not be assessed against a contractor
47 for failing to complete a project within the time required by
48 the contract, unless the contractor failed to complete the
49 project within the contract period as extended under this
50 paragraph.

51 (d) The failure to include any corrective work or pending
52 items not yet completed on the list does not alter the
53 responsibility of the contractor to complete all the
54 construction services purchased pursuant to the contract.

55 (e) Within 20 days after developing the list, the local
56 governmental entity shall pay the contractor the remaining
57 balance of the contract, including any remaining retainage
58 withheld by the local governmental entity, less an amount that
59 equals the estimated cost to complete the items on the list.

60 (f) ~~(e)~~ Upon completion of all items on the list, the
61 contractor may submit a payment request for the amount ~~all~~
62 ~~remaining retainage~~ withheld by the local governmental entity
63 pursuant to paragraph (e) ~~this section~~. If a good faith dispute
64 exists as to whether one or more items identified on the list
65 have been completed pursuant to the contract, the local
66 governmental entity may continue to withhold up to 150 percent

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67 of the total costs to complete such items.

68 ~~(g)(f)~~ All items that require correction under the
69 contract and that are identified after the preparation and
70 delivery of the list remain the obligation of the contractor as
71 defined by the contract.

72 ~~(h)(g)~~ Warranty items or items not included in the list of
73 items required under paragraph (a) may not affect the final
74 payment of retainage as provided in this section or as provided
75 in the contract between the contractor and its subcontractors
76 and suppliers.

77 ~~(i)(h)~~ Retainage may not be held by a local governmental
78 entity or a contractor to secure payment of insurance premiums
79 under a consolidated insurance program or series of insurance
80 policies issued to a local governmental entity or a contractor
81 for a project or group of projects, and the final payment of
82 retainage as provided in this section may not be delayed pending
83 a final audit by the local governmental entity's or contractor's
84 insurance provider.

85 ~~(j)(i)~~ If a local governmental entity fails to comply with
86 its responsibilities to develop the list required under
87 paragraph (a) or paragraph (b) within the time limitations
88 provided in paragraph (a), the contractor may submit a payment
89 request to the local governmental entity for the remaining
90 balance of the contract, including all remaining retainage
91 withheld by the local governmental entity. The local

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92 governmental entity must pay the contractor pursuant to this
93 section; and payment of any remaining undisputed contract
94 amount, less any amount withheld pursuant to the contract for
95 incomplete or uncorrected work, must be paid within 20 business
96 days after receipt of a proper invoice or payment request. If
97 the local governmental entity has provided written notice to the
98 contractor specifying the failure of the contractor to meet
99 contract requirements in the development of the list of items to
100 be completed, the local governmental entity shall pay the
101 contractor the remaining balance of the contract, less an amount
102 equal to 150 percent of the estimated cost to complete the items
103 that the local governmental entity intended to include on the
104 list need not pay or process any payment request for retainage
105 if the contractor has, in whole or in part, failed to cooperate
106 with the local governmental entity in the development of the
107 list or to perform its contractual responsibilities, if any,
108 with regard to the development of the list or if paragraph
109 (8)(c) applies.

110 (8)

111 (c) This section does not require the local governmental
112 entity to pay or release any amounts that are the subject of a
113 good faith dispute made in writing pursuant to the contract or
114 the subject of a claim brought pursuant to s. 255.05, or
115 otherwise the subject of a claim or demand by the local
116 governmental entity or contractor.

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117 Section 2. Paragraph (a) of subsection (2) of section
118 218.76, Florida Statutes, is amended to read:

119 218.76 Improper payment request or invoice; resolution of
120 disputes.—

121 (2)(a) If a dispute arises between a vendor and a local
122 governmental entity concerning payment of a payment request or
123 invoice, the dispute shall be finally determined by the local
124 governmental entity pursuant to a dispute resolution procedure
125 established by the local governmental entity. Such procedure
126 must provide that proceedings to resolve the dispute are
127 commenced within 30 ~~45~~ days after the date the payment request
128 or proper invoice was received by the local governmental entity
129 and concluded by final decision of the local governmental entity
130 within 45 ~~60~~ days after the date the payment request or proper
131 invoice was received by the local governmental entity. Such
132 procedures are not subject to chapter 120 and do not constitute
133 an administrative proceeding that prohibits a court from
134 deciding de novo any action arising out of the dispute. If the
135 dispute is resolved in favor of the local governmental entity,
136 interest charges begin to accrue 15 days after the local
137 governmental entity's final decision. If the dispute is resolved
138 in favor of the vendor, interest begins to accrue as of the
139 original date the payment became due.

140 Section 3. Subsection (2) of section 255.073, Florida
141 Statutes, is amended to read:

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142 255.073 Timely payment for purchases of construction
143 services.—

144 (2) If a public entity disputes a portion of a payment
145 request, the undisputed portion must be ~~timely~~ paid by the date
146 required under the contract or by 20 days after receipt of the
147 request, whichever is earlier.

148 Section 4. Subsection (3) of section 255.074, Florida
149 Statutes, is amended to read:

150 255.074 Procedures for calculation of payment due dates.—

151 (3) A public entity must submit a payment request to the
152 Chief Financial Officer for payment no more than 14 ~~20~~ days
153 after receipt of the payment request.

154 Section 5. Subsections (4) through (8) of section 255.077,
155 Florida Statutes, are renumbered as subsections (5) through (9),
156 respectively, subsection (1) and present subsections (4) and (8)
157 are amended, and a new subsection (4) is added to that section,
158 to read:

159 255.077 Project closeout and payment of retainage.—

160 (1) Each contract for construction services between a
161 public entity and a contractor must provide for the development
162 of a list of items required to render complete, satisfactory,
163 and acceptable the construction services purchased by the public
164 entity, which must include a dollar valuation, as reasonably
165 determined by the contractor as a portion of the contract value,
166 of the estimated cost to complete each item. The contract must

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167 specify the process for the development of the list, including
168 responsibilities of the public entity and the contractor in
169 developing and reviewing the list and a reasonable time for
170 developing the list, as follows:

171 (a) For construction projects having an estimated cost of
172 less than \$10 million, within 30 calendar days after reaching
173 substantial completion of the construction services purchased as
174 defined in the contract, or, if not defined in the contract,
175 upon reaching beneficial occupancy or use; or

176 (b) For construction projects having an estimated cost of
177 \$10 million or more, within 30 calendar days, unless otherwise
178 extended by contract not to exceed 60 calendar days, after
179 reaching substantial completion of the construction services
180 purchased as defined in the contract, or, if not defined in the
181 contract, upon reaching beneficial occupancy or use.

182 (4) Within 20 days after developing the list, the public
183 entity shall pay the contractor the remaining balance of the
184 contract, including any remaining retainage withheld by the
185 public entity pursuant to s. 255.078, less an amount that equals
186 the estimated costs to complete the items on the list.

187 (5)-(4) Upon completion of all items on the list, the
188 contractor may submit a payment request for the amount ~~all~~
189 ~~remaining retainage~~ withheld by the public entity pursuant to
190 subsection (4) s. 255.078. If a good faith dispute exists as to
191 whether one or more items identified on the list have been

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192 completed pursuant to the contract, the public entity may
193 continue to withhold an amount not to exceed 150 percent of
194

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