
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 1205 (Valladares) - Public contracts: retention: architecture or engineering services

Version: April 9, 2026

Urgency: No

Hearing Date: May 4, 2026

Policy Vote: G.O. 15 - 0, L. GOV. 7 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: SB 1205 prohibits any retention payments for contracts under design-bid-build directly between a public entity and an individual or legal entity permitted by law to practice the profession of architecture or engineering from exceeding five percent of the payment.

Fiscal Impact: Unknown fiscal impact on state and local agencies undertaking design-bid-build projects (various special funds). Limiting the amount of retention payments that can be withheld and mandating release of payment as prescribed by this bill may increase the risk of a firm failing to complete its work. Such occurrences could result in additional administrative burden, project delays, and potential litigation for the contracting public entity. Actual cost pressures will vary depending on project scope and may range from absorbable to significant.

Background: In California and many other states, a public agency is entitled to withhold a percentage of a contract which allows the public agency to maintain some control over the project and ensure that the contractor performs the work, on time, and within a budget. Prior to 2011, state law allowed a public agency to retain no less than five percent from the contractor until the project was completed; the usual standard for public entities was 10%, although this was not set by statute. In 2011, SB 293 (Padilla, Chapter 700, Statutes of 2011) was enacted which capped the percentage that could be withheld to five percent.

The only identified exception to the five percent retention limit is when a public entity deems that a project is substantially complex during a properly noticed and regularly scheduled public meeting prior to bidding on the project. In that case, retention proceeds may exceed the five percent retention cap.

Determining whether a project is substantially complex for purposes of requiring retention in excess of five percent must be analyzed and approved on a project-by-project basis. The finding and the designated retention amount must be included in the project's bid documents. Existing law establishing the general five percent retention limit but allowing higher retention for substantially complex. Last year, Governor Newsom signed SB 61 (Cortese, Chapter 49, Statutes of 2025) which established a five percent cap on retention on most private construction projects – bringing private sector rules in line with existing public works law.

However, while a five percent retention cap is an established policy standard for construction projects, no equivalent statutory limitation exists for professional services contracts, including those for architects and engineers. According to the author's office,

public entities often apply construction-style retention provisions to architectural contracts, withholding up to 10% of payments. Unlike contractors, architects typically complete their scope of work well before construction is finished; however, retained funds are frequently not released until overall project completion, which may occur years after design services are rendered.

Proposed Law:

- Provides that any retention payments for contracts under design-bid-build directly between a public entity and an individual or legal entity permitted by law to practice the profession of architecture or engineering shall not exceed five percent of the payment.
- Requires that any retention withheld shall be released no later than 60 days upon completion of the firm's design services under contract, regardless of whether the project for which the services were provided has been completed.
- Defines "firm" to mean an individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture or engineering.
- Defines "public entity" to mean the state, including every state agency, office, department, division, bureau, board, or commission, the California State University, the University of California, a city, county, city and county, including charter cities and charter counties, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

Related Legislation: AB 1885 (Carillo, 2026) prohibits retention proceeds withheld from payment by a state agency when making progress payments to a contractor from exceeding 3.5 percent, as specified. AB 1885 is pending in the Assembly Appropriations Committee.

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