THIRD READING

Bill No: SB 1205
Author: Valladares (R)
Amended: 4/9/26
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 4/14/26
AYES: Rubio, Alvarado-Gil, Archuleta, Ashby, Blakespear, Cervantes, Choi, Dahle, Hurtado, Ochoa Bogh, Padilla, Richardson, Smallwood-Cuevas, Wahab, Weber Pierson

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 4/22/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/14/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SUBJECT: Public contracts: retention: architecture or engineering services

SOURCE: American Institute of Architects, California

DIGEST: This bill 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.

ANALYSIS:

Existing law:

1) Prohibits the retention proceeds withheld from any payment by a public entity from the original contractor, by the original contractor from any subcontractor, and by a subcontractor from any subcontractor, from exceeding five percent of the payment for all contracts between a public agency and a contractor relating to the construction of any public works project. (Public Contract Code § 7201)

2) Defines "public works" to mean the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

3) Prohibits a retention payment withheld from a payment by an owner from the direct contractor, by the direct contractor from any subcontractor, and by a subcontractor from any subcontractor thereunder, for a private work of improvement, from exceeding five percent of the payment. (Civil Code § 8811)

This bill:

1) 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.

2) 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.

3) 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.

4) 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.

Background

Author's Statement. According to the author's office, "California relies on architects to design safe, resilient, and innovative public infrastructure. Yet under current practice, many architects are forced to wait years to receive full payment for work they completed long before construction is finished. SB 1205 ensures that payment practices reflect the realities of professional services, not construction risk. This bill supports small businesses, improves cash flow, and promotes a more efficient and equitable public contracting system."

Five-Percent Retention Cap. The five percent retention cap represents a critical policy for the construction industry, particularly in supporting small and emerging contractors. By limiting the amount of payment withheld, the cap helps ensure these businesses maintain sufficient cash flow to meet ongoing obligations, including payroll, employee benefits, material costs, and applicable taxes. Given the typically low profit margins in construction, timely and predictable payments are essential to sustaining operations. This financial stability enables contractors to continue bidding on future public works projects without relying on costly lines of credit or operating under uncertain financial conditions. Absent the retention cap, contractors may face constrained cash flow and heightened financial risk, limiting their ability to compete and remain viable.

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 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. The author's office contends that, for smaller and mid-sized firms, these delayed payments can significantly affect business operations and hiring decisions.

This bill establishes a five percent retention cap for all contracts between a public entity and a licensed architect or engineer. It would also require that any retention withheld be released no later than 45 days after completion of the firm's design services, regardless of whether the broader construction project has been completed. According to the author's office, this approach "will ensure that architects are paid in a timely manner upon completion of their scope of work, rather than being tied to construction completion." In doing so, the bill seeks to align payment practices with the actual risk profile of professional services, modernize public contracting, and promote fair and timely compensation for design professionals.

Design-Bid-Build. Design–bid–build (DBB) is a construction project delivery method in which the work is completed in three distinct, sequential phases: design, bidding, and construction. In California this is a "traditional" method that is frequently used for public infrastructure projects. First, the project owner hires a designer—typically an architect or engineer—to develop complete plans and specifications for the project. Once the design is finalized, the project moves into the bidding phase, where contractors submit competitive bids based on those plans, and the owner usually selects the lowest responsible bidder. After a contractor is chosen, the project enters the construction phase, during which the contractor builds the project according to the completed design. This method is widely used because it provides a clear structure, defined roles, and a transparent bidding process that can help control costs.

Related/Prior Legislation

SB 61 (Cortese, Chapter 49, Statutes of 2025) prohibits an owner, direct contractor, or a subcontractor of a private work of improvement from withholding a retention payment from a direct contractor or subcontractor of more than five percent, except as specified.

AB 1885 (Carillo, 2026) reduces that amount of retention proceeds state agencies may withhold, from 5% to 3.5% from a progress payment to certain contractors on a public works project. (Pending in the Assembly Appropriations Committee)

AB 2173 (Petrie-Norris, Chapter 121, Statutes of 2022) removed the sunset clause on the five percent retention cap policy related to public works.

AB 92 (Bonta, Chapter 37, Statutes of 2017) extended, from January 1, 2018, to January 1, 2023, the sunset date on existing statutes governing the amount of money a public agency can retain from a contractor or subcontractor prior to completion of a public works project.

AB 1705 (Williams, Chapter 670, Statutes of 2014) limited the circumstances under which public agencies may withhold more than five percent of total payment amounts for time and materials on substantially complex public works projects and extended the repeal date of the provisions governing retention proceeds from January 1, 2016, to January 1, 2018.

SB 293 (Padilla, Chapter 700, Statutes of 2011) capped the amount of money that public agencies can withhold from a contractor prior to completion of a public works project at five percent of the total contract, with specified exceptions, with a sunset of January 1, 2016.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, 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.

SUPPORT: (Verified 5/14/26)

American Institute of Architects, California (Source)
American Council of Engineering Companies of California

OPPOSITION: (Verified 5/14/26)

None received

ARGUMENTS IN SUPPORT: According to the American Council of Engineering Companies of California, "SB 1205 aligns with this policy by reinforcing a 5% on retention for contracts involving design professionals working with public agencies. It also supports timely release of any retained funds, ensuring payments are issued within 60 days after completion of services."

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