

Date of Hearing: June 10, 2026

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Blanca Rubio, Chair

SB 1205 (Valladares) – As Amended April 9, 2026

**SENATE VOTE:** 33-0

**SUBJECT:** Public contracts: retention: architecture or engineering services

**SUMMARY:** This bill would prohibit any retention payments from exceeding 5% of the payment 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. The bill would also require any retention withheld to be released no later than 60 days after completion of services under contract. Specifically, **this bill:**

- 1) Provides for contracts under design-bid-build, and amendments thereto, entered into on or after January 1, 2027, directly between a public entity and a firm, any retention payments to the firm for services shall not exceed 5 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.

**EXISTING LAW:**

- 1) Provides under the State Contract Act a contracting process by state agencies for public improvement works pursuant to a competitive bidding process, under which bids are awarded to the lowest responsible bidder, with specified alternative procurement procedures authorized in certain cases.
- 2) 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 (PCC) § 7201)
- 3) Defines “Public works contract” to mean a contract awarded through competitive bids by the state or any of its political subdivisions or public agencies for the erection, construction,

alteration, repair, or improvement of any structure, building, road, or other improvement of any kind. (PCC § 1101)

4) Requires, in most cases that retention proceeds withheld from payment by a public entity be released within 60 days after the date of completion of the work of improvement, except as specified in case of a dispute.

5) The primary statutory authority for public works contracting by California general law cites is codified at PCC §§ 20160 through 20174. § 20162 provides that “[w]hen the expenditure required for a public project exceeds five thousand dollars (\$5,000), it shall be contracted for and let to the lowest responsible bidder after notice.”

**FISCAL EFFECT:** This bill is keyed fiscal by Legislative Counsel.

**COMMENTS:**

Purpose of the bill. 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.”

**Background.**

Design-Bid-Build. Design-bid-build (DBB) is a construction project delivery method in which a project is completed through three distinct, sequential phases: design, bidding, and construction. In California, DBB is considered the traditional project delivery method and is commonly used for public infrastructure projects.

Under the DBB method, the owner hires a design professional (architect or engineer) to prepare complete plans and specifications. After the design is finalized, the project is advertised for competitive bidding. Once a contractor is selected and the contract is awarded, the contractor constructs the project in accordance with the plans and specifications.

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.

Retention Cap. In 2012, California made sweeping changes to its retention laws on public works projects. These changes (Public Contract Code sections 7200, et. seq.) have impacted how contractors are able to deal with retention and when retention is to be paid. Previously, public agency owners and original (i.e., general) contractors had discretion as to the amount of retention they could withhold on a public works project. Under most situations, the parties negotiated to withhold ten percent (10%) in retention of the contract amount until completion. The withholding of ten percent from progress payments was commonly viewed as reasonable and a necessary incentive for the original contractors and subcontractors to complete their respective

scopes of work on time. However, under California's current retention laws, these parties no longer have such discretion.

SB 293 (Padilla), Chapter 700, Statutes of 2011, limited the allowable withholding percentage to 5%. The bill included a five-year sunset provision, which was later extended through subsequent legislation. Specifically, for public works contracts entered into on or after January 1, 2012, public agency owners, original contractors and subcontractors were required to withhold no more than 5% retention. With respect to subcontracts, the amount of withheld retention cannot exceed the amount specified in the contract between the original contractor and the owner.<sup>1</sup>

Many original contractors and subcontractors welcome reduced retentions, as a lower retention percentage improves cash flow and enhances financial flexibility. Increased cash flow can be especially beneficial when contract margins are thin or when there are unpaid claims for extra work.

AB 2173 (Petrie-Norris), Statutes of 2022, removed the prior legislative sunset date and made permanent the statute that limited the amount of retention that a public entity may withhold on public works projects from construction contractors to no more than 5% of the public works contract, unless the director of the applicable department has made, or the governing body of the public entity or designated official of the public entity makes a finding prior to bidding that the project is "substantially complex" and requires the withholding of more than 5%. This was accomplished by amending Section 7201 and Section 10261 of the PCC.

It should be noted that the federal government and Caltrans adhere to 'zero percent' retention policies under SB 197 (Beall, Statutes of 2019), paying one hundred percent for work completed and accepted. Under this framework, agencies rely on performance bonds and retain the right to withhold necessary amounts from progress payments for any work in dispute. The Federal Acquisition Regulation (FAR) 32.103 states; "retainage should not be used as a substitute for good contract management, and the contracting officers should not withhold funds without cause." The prohibition on Caltrans holding retainage can be found in PPC § 7202. In addition, cities and counties using design-build and other alternative construction delivery methods are allowed to hold no more than 5% retention on contractors.

Policy consideration. It is worth noting that, although a 5% retention cap is a well-established policy standard for construction projects, no equivalent statutory limitation applies to professional services contracts, including contracts for architectural and engineering services. As a result, public agencies retain broad discretion in setting retention amounts for design services. This can cause financial strain on design firms, particularly smaller entities with limited cash flow. In addition, the timing of retention release by public agencies for design services is often inconsistent and, in some cases, delayed until completion of the overall project. Because construction timelines may extend over several years, design firms may not see their retention funds returned for several years.

In support. According to the American Council of Engineering Companies of California, "This bill 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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<sup>1</sup> <https://www.smtlaw.com/how-californias-retention-laws-on-public-works-projects-impact-project-completion/>

Related legislation. AB 1885 (Carrillo) of 2026. This bill would have reduced the amount of retention proceeds certain state agencies may withhold, from 5% to 3.5%, from a progress payment to certain contractors on a public works project. (Assembly Committee on Appropriations - Held on Suspense File)

Prior legislation. SB 61 (Cortese), Chapter 49, Statutes of 2025. Imposed limits on the amount an owner can withhold from a direct contractor, or a contractor from a subcontractor, for a private construction projects of improvement to 5% or less. This cap was designed to protect contractors and subcontractors by improving cash flow during the project.

AB 2173 (Petrie-Norris), Chapter 121, Statutes of 2022. Removed the sunset clause on the 5% retention cap policy related to public works projects, thereby permanently establishing it.

SB 1192 (Ochoa Bogh), Chapter 93, Statutes of 2022. Clarified that the term “contractor” includes design professionals for the purpose of authorizing the substitution of alternative securities in lieu of retention payments withheld when contracting with a state agency on a public works project, as specified.

SB 197 (Beall), Chapter 842, Statutes of 2019. Eliminated the sunset date related to existing law prohibiting Caltrans from withholding retention proceeds to its contractors when making progress payments for work performed on a public works project.

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 5% of the total contract, with specified exceptions, with a sunset of January 1, 2016.

AB 2230 (Wiggins), Chapter 758, Statutes of 2000. Allowed contractors providing architectural, engineering and land surveying services to state agencies to earn interest on the portion of their fees retained by the state, provided the retention amount is in excess of \$10,000 and is held for a period of at least 60 days.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

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

### **Opposition**

None on file

**Analysis Prepared by:** Eric Johnson / G.O. / (916) 319-2531