

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-FOURTH SESSION**

**S.F. No. 1714**

(SENATE AUTHORS: JOHNSON STEWART, Rarick, Lang and McEwen)

DATE  
02/20/2025

D-PG  
457

Introduction and first reading  
Referred to State and Local Government

OFFICIAL STATUS

- 1.1 A bill for an act
- 1.2 relating to state government; requiring payment transparency in public contracts;
- 1.3 amending Minnesota Statutes 2024, sections 15.72, subdivision 2, by adding a
- 1.4 subdivision; 337.10, subdivision 4.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2024, section 15.72, subdivision 2, is amended to read:
- 1.7 Subd. 2. **Retainage.** (a) A public contracting agency may reserve as retainage from any
- 1.8 progress payment on a public contract for a public improvement an amount not to exceed
- 1.9 five percent of the payment. A public contracting agency may reduce the amount of the
- 1.10 retainage and may eliminate retainage on any monthly contract payment if, in the agency's
- 1.11 opinion, the work is progressing satisfactorily.
- 1.12 (b) The public contracting agency must release all retainage no later than 60 days after
- 1.13 substantial completion, subject to the terms of this subdivision. If the public contracting
- 1.14 agency reduces the amount of retainage, the contractor must reduce retainage for any
- 1.15 subcontractors at the same rate.
- 1.16 (c) A contractor on a public contract for a public improvement must pay all remaining
- 1.17 retainage to its subcontractors no later than ten days after receiving payment of retainage
- 1.18 from the public contracting agency, unless there is a dispute about the work under a
- 1.19 subcontract. If there is a dispute about the work under a subcontract, the contractor must
- 1.20 pay out retainage to any subcontractor whose work is not involved in the dispute, and must
- 1.21 provide a written statement detailing the amount and reason for the withholding to the
- 1.22 affected subcontractor.

(d) Upon written request of a subcontractor, the public contracting agency shall notify the subcontractor of a progress payment, retainage payment, or final payment made to the contractor.

(e) After substantial completion, a public contracting agency may withhold no more than:

(1) 250 percent of the cost to correct or complete work known at the time of substantial completion; and

(2) one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor. For purposes of this subdivision, "final paperwork" means documents required to fulfill contractual obligations, including, but not limited to, operation manuals, payroll documents for projects subject to prevailing wage requirements, and the withholding exemption certificate required by section 270C.66.

If the public contracting agency withholds payment under this paragraph, the public contracting agency must promptly provide a written statement detailing the amount and basis of withholding to the contractor. The public contracting agency and contractor must provide a copy of this statement to any subcontractor that requests it. Any amounts withheld under clause (1) must be paid within 60 days after completion of the work. Any amounts withheld under clause (2) must be paid within 60 days after submission of all final paperwork.

(f) As used in this subdivision, "substantial completion" shall be determined as provided in section 541.051, subdivision 1, paragraph (a). For construction, reconstruction, or improvement of streets and highways, including bridges, substantial completion means the date when construction-related traffic devices and ongoing inspections are no longer required.

(g) Withholding retainage for warranty work is prohibited. This provision does not waive any rights for warranty claims.

(h) For a project funded with federal or state aid, the public contracting agency is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

(i) Nothing in this section requires payment for a portion of a contract that is not complete or for which an invoice has not been submitted. A contract, management system, or procedure that restricts, delays, or prohibits a party from submitting an invoice is contrary to public policy and is void and unenforceable.

3.1 Sec. 2. Minnesota Statutes 2024, section 15.72, is amended by adding a subdivision to  
3.2 read:

3.3 Subd. 4. **Notification to contractors and subcontractors of payment.** (a) A public  
3.4 contracting agency must notify contractors and subcontractors on a public improvement  
3.5 project of every tier of any progress payment, retainage payment, final payment, or any  
3.6 other payment made by the public contracting agency.

3.7 (b) The notification must include:

3.8 (1) the amount of the payment;

3.9 (2) the date the payment was made;

3.10 (3) the name and address of the party receiving the payment;

3.11 (4) at least one of the following items:

3.12 (i) an identification of the scope of work the payment relates to;

3.13 (ii) the percentage of overall project completion, the percentage of completion for scope  
3.14 of work the payment relates to, and a general description of what work the amount paid  
3.15 relates to; or

3.16 (iii) a copy of a payment application submitted by a contractor or subcontractor that the  
3.17 payment issued relates to; and

3.18 (5) the reasons for withholding of payment and any retainage terms applied to the  
3.19 payment.

3.20 (c) The public contracting agency must provide the notification in this subdivision to  
3.21 contractors and subcontractors of every tier within three business days of making the  
3.22 payment.

3.23 (d) No cost or fees shall be charged to the contractor or subcontractor for the notice  
3.24 provided to them.

3.25 Sec. 3. Minnesota Statutes 2024, section 337.10, subdivision 4, is amended to read:

3.26 Subd. 4. **Progress payments and retainages.** (a) Unless the building and construction  
3.27 contract provides otherwise, the owner or other persons making payments under the contract  
3.28 must make progress payments monthly as the work progresses. Payments shall be based  
3.29 upon estimates of work completed as approved by the owner or the owner's agent. A progress  
3.30 payment shall not be considered acceptance or approval of any work or waiver of any defects  
3.31 therein.

(b) Retainage on a building and construction contract may not exceed five percent. An owner or owner's agent may reduce the amount of retainage and may eliminate retainage on any monthly contract payment if, in the owner's opinion, the work is progressing satisfactorily. If the owner reduces the amount of retainage, the contractor must reduce retainage for any subcontractors at the same rate. Nothing in this subdivision is intended to require that retainage be withheld in any building or construction contract.

(c) The owner or the owner's agent must release all retainage no later than 60 days after substantial completion subject to the terms of this subdivision. For purposes of this subdivision, "substantial completion" shall be determined as provided in section 541.051, subdivision 1, paragraph (a).

(d) A contractor must pay all remaining retainage to its subcontractors no later than ten days after receiving payment of retainage, unless there is a dispute about the work under a subcontract, in which case the contractor must pay out retainage to any party whose work is not involved in the dispute. If there is a dispute about the work under a subcontract, the contractor must pay out retainage to any subcontractor whose work is not involved in the dispute, and must provide a written statement detailing the amount and reason for the withholding to the affected subcontractor.

(e) After substantial completion, an owner or owner's agent may withhold no more than:

(1) 250 percent of the cost to correct or complete work known at the time of substantial completion; and

(2) one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor. For purposes of this subdivision, "final paperwork" means documents required to fulfill contractual obligations, including, but not limited to, operation manuals, payroll documents for projects subject to prevailing wage requirements, and the withholding exemption certificate required by section 270C.66.

If the owner or the owner's agent withholds payment under this paragraph, the owner or the owner's agent must promptly provide a written statement detailing the amount and basis of withholding to the contractor. The owner or the owner's agent and the contractor must provide a copy of this statement to any subcontractor that requests it. Any amounts withheld under clause (1) must be paid within 60 days after completion of the work. Any amounts withheld under clause (2) must be paid within 60 days after submission of all final paperwork.

(f) Withholding retainage for warranty work is prohibited. This provision does not waive any rights for warranty claims.

5.1 (g) This subdivision does not apply to a public agency as defined in section 15.71,  
5.2 subdivision 3.

5.3 (h) This subdivision does not apply to contracts for professional services as defined in  
5.4 sections 326.02 to 326.15.

5.5 (i) Nothing in this section requires payment for a portion of a contract that is not complete  
5.6 or for which an invoice has not been submitted. A contract, management system, or procedure  
5.7 that restricts, delays, or prohibits a party from submitting an invoice is contrary to public  
5.8 policy and is void and unenforceable.