



NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

Contra Costa Chapter · 1024 Court Street · Martinez, California 94553-1733  
TEL: (925) 372-3222

June 26, 2017

Governor Edmund "Jerry" G. Brown, Jr.  
State Capitol Building  
Sacramento, CA 95814

RE: AB 92 (Bonta) – Public Works Retention Cap – Request for Signature

Dear Governor Brown:

On behalf of Contra Costa Chapter, NECA, I am pleased to make you aware of our support for AB 92 (Bonta).

The California State Legislature passed and you signed SB 293 in 2011, putting into place statutes that capped the amount of retention a public entity could withhold from progress payments made to construction contractors on public works projects at 5%. In 2014, you signed AB 1705 into law providing technical clean up to the statute and also extended the sunset on the 5% retention cap until January 1, 2018.

The 5% retention cap on public works projects is a very important policy for our industry and has had an extremely positive impact on large, small and emerging construction businesses; unfortunately, the policy is scheduled to sunset at the end of this year.

AB 92 would extend the sunset clause on the current 5% retention cap statutes, pertaining to public works projects, from January 1, 2018 to January 1, 2023.

Prior to the passage of SB 293, state law allowed an administering agency to retain money from prime contractors and subcontractors in an amount no less than 5% (common practice was 10% of the total project cost) until after the project is complete. In addition to the retention provisions, state law also requires contractors on public works of improvement to post a performance bond [Public Contract Code 10224 and 20129 (b)] to ensure faithful completion of the project. These two policies created a "belt and suspenders" situation that drove up the costs of public works projects and tied up contractor's money.

When state and local public agencies only pay contractors ninety cents on the dollar for the work completed and accepted, it places construction contractors in a highly leveraged position. Contractors have a financial obligation close to one hundred cents on the dollar. These obligations include meeting payroll, paying employee benefits, paying material suppliers and all taxes on the value of the work completed. When retention exceeds the profit margin for a job, contractors have to utilize lines of credit to meet their obligations. The duplicative and unreasonable costs created by excessive amounts of retention, in addition to the bonding requirements, result in higher costs to public entities for construction projects as contractors have to pass along their financing expenses.

The 5% retention cap is simply good law for both contractors and public agencies. AB 92 will extend this fair policy which reduces the cost of public works construction and provides capital for job creation at a time in which California is actively investing in its infrastructure, at both the state and local level.

For all of the reasons stated above, I respectfully request your signing of AB 92 (Bonta).

Sincerely,

CONTRA COSTA CHAPTER, NECA



Michael Geller  
Manager

MG/ss