


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 12-0776

Date: May 1, 2012

Prime Sponsor(s): Sen. Tochtrop
Rep. Kerr J.

Bill Status: Senate Business, Labor and Technology

Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING BUILDING AND CONSTRUCTION CONTRACTS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill defines "building and construction contract" (contract) as any contract subject to the statutory provisions regarding mechanics' liens and excludes public works contracts. It states that building and construction contracts for work within Colorado that contain provisions making the contract subject to the laws of another state or requiring dispute resolution in another state are void. Any provision requiring a contractor, subcontractor, or material supplier to waive the right to a mechanics' lien or to a claim against a payment bond before a contractor, subcontractor, or materials supplier has been paid for labor and materials, is also void. The bill also requires:

- the principal or prime contractor and all subcontractors to promptly pay a subcontractor or material supplier within seven days after receipt of invoice;
- that the contractor, subcontractor, or material supplier that prevails in a civil action for payment be awarded its costs and disbursements, including reasonable attorney fees;
- that the owner, owner's agent, or any other person responsible for making payments, make monthly progress payments to the contractor based on work completed as estimated by the owner or owner's agent unless the contract provides otherwise;
- that an owner or owner's agent not retain more than 5 percent of each progress payment; and
- that in the case of a change order, the contractor submit its costs for such work within 30 days and if the amount is in dispute, the owner pay the contractor 50 percent of the contractor's estimate.

State Expenditures

This bill may result in a minimal increase in caseload to the Judicial Branch for contract disputes. This is expected to be addressed within existing resources. Because the bill excludes public works projects, state and local governments are not subject to the requirements of the bill.

Departments Contacted

Judicial