

CHAPTER 238.

[S. B. 182.]

LIENS—PUBLIC WORKS—RETAINED PERCENTAGE.

AN ACT relating to contracts for public works; and amending section 1, chapter 166, Laws of 1921, as amended by section 1, chapter 236, Laws of 1955, and RCW 60.28.010.

Be it enacted by the Legislature of the State of Washington:

RCW 60.28.010 amended.

SECTION 1. Section 1, chapter 166, Laws of 1921, as amended by section 1, chapter 236, Laws of 1955, and RCW 60.28.010 are each amended to read as follows:

Lien for labor, material, taxes on public works.

Contracts for public improvements or work by the state, or any county, city, town, district, board, or other public body, shall provide, and there shall be reserved from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 which may be due from such contractor. Said fund shall be retained for a period of thirty days following the final acceptance of said improvement or work as completed, and every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said fund so reserved, provided such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 through 39.08.060 as now

existing and in accordance with any amendments that may hereafter be made thereto: *Provided, however*, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body, at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments subsequently made in full: *Provided further, That on completion and acceptance of each separate building or public work, upon which the price is stated separately in the contract, payment may be made in full, including the retained percentage thereon, less authorized deductions, in the same manner as if the entire contract had been completed and accepted.* The provisions of this chapter shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

Proviso.

Words in italics vetoed.

Passed the Senate February 23, 1963.

Passed the House March 12, 1963.

Approved by the Governor March 26, 1963, with the exception of a certain item in Section 1, which was vetoed.

NOTE: Governor's explanation of partial veto is as follows:

"This bill amends the present law requiring that governmental units withhold fifteen percent of amounts earned by contractors during the progress of construction projects as a trust fund for the benefit of lienholders. As amended by this bill, the percentage of retained earnings is reduced from fifteen percent to ten percent.

Veto message, excerpt.

"The legislature also added two new provisos. The first allows an officer acting for a governmental unit to pay a contractor all amounts previously retained after fifty percent of the work has been completed. By adding this proviso, the effective retained percentage at the completion of the contract could be five percent of the original price.

"The second proviso states that payment could be made in full on any completed portion that was treated as a separate price item in the contract in the same manner as if the entire contract had been completed and accepted. If this second proviso were to remain, it is possible that the retained trust fund would be substantially less than five percent of the total contract price and would be insufficient to meet either tax liens or labor and materialman's liens; thus the primary purpose of the law would be curtailed if not lost.

"For the foregoing reasons, the item contained in the second proviso of Section 1 is vetoed and the remainder of Senate Bill No. 182 is approved."

ALBERT D. ROSELLINI,
Governor.