MAINE STATE LEGISLATURE

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L.D. 529

Z	DATE: 3 17 2000 (Filing No. S-555)							
4	DAIL: 3[11] 2000 (FIIIng No. 5-333)							
6	STATE AND LOCAL GOVERNMENT							
8	Reported by:							
10	Reproduced and distributed under the direction of the Secretary of the Senate.							
12	- STATE OF MAINE							
14	SENATE 119TH LEGISLATURE							
16	SECOND REGULAR SESSION							
18								
	COMMITTEE AMENDMENT "A" to S.P. 173, L.D. 529, Bill, "An							
20	Act Regarding Retainage on Major State and School Construction Projects"							
22	· 3							
	Amend the bill by striking out the title and substituting							
24	the following:							
26	'An Act Regarding Retainage on Major School Construction Projects'							
28	Further amend the bill in section 2 in that part designated							
20	"\$1746-A." by striking out all of the first 2 lines (page 1,							
30	lines 15 and 16 in L.D.) and inserting in their place the following:							
32	TOTIOWING.							
	'\$1746-A. Retention of part of contract payment for major school							
34	construction projects'							
36	Fromblen smend the hill in section 2 in that ment designated							
30	Further amend the bill in section 2 in that part designated "\$1746-A." in the first paragraph in the 2nd line (page 1, line							
38	19 in L.D.) by striking out the following: "public improvement							
	projects" and inserting in its place the following: 'school							
40	construction projects'							
42	Further amend the bill in section 2 in that part designated							
	"§1746-A." by striking out all of subsections 1 to 4 (page 1,							
44	lines 23 to 52 and page 2, lines 2 to 28 in L.D.) and inserting							
16	in their place the following:							
46	'1. Definitions. As used in this section, unless the							
48	context otherwise indicates, the following terms have the							
	following meanings.							

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COMMITTEE AMENDMENT "A" to S.P. 173, L.D. 529

2	A. "Division of the specification" means one of the basic organizational subdivisions used in the uniform system for
4	construction specifications, data filing and cost accounting.
4	B. "First-tier subcontract" means a subcontract that is
6	made directly to the general contractor.
8	C. "Nonperformance" includes, but is not limited to, defects in workmanship or materials, failure to perform all
10	the work specified or delay by the general contractor or subcontractor that causes adverse financial consequences.
12	subcontractor that causes adverse illiancial consequences.
	D. "Owner" means a school administrative unit or a school
14	building committee having an interest in real property on which a school construction project is or will be built.
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	E. "Punch list" means a list made near the completion of
18	work that indicates minor items to be corrected or work to
	be performed by the general contractor or subcontractor in
20	order to complete the work as specified in the contract
22	documents.
22	F. "School construction project" means the construction,
24	major alteration or repair of school buildings owned by any
	school administrative unit or municipality when that
26	construction, major alteration or repair of school buildings
	is in excess of \$1,000,000 in value and for which state
28	school construction aid is paid.
30	2. Bases of retention. Payment under a contract or
	subcontract for a school construction project may be withheld for
32	known defects or for retainage as provided in this section.
24	Payment may not be retained in anticipation of warranty defects
34	for which there is no evidence.
36	3. Line-item retainage. Payment and retention of payment
	on a school construction project must be based on contract line
38	items. Contract line items for each project must be identified
	by the parties prior to the start of the project. The
40	identification of contract line items must be based upon the work
42	contained in each first-tier subcontract and materials from vendors who supply to the general contractor a complete section
	in a division of the specification for installation by others.
44	Nothing in this subsection prevents an owner from further
	breaking down the identified line items, but the owner may not do
46	so for the purposes of paying retainage. If payment is retained
	under this subsection, the amount retained may not exceed 5% of

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the payment for approved work on that line item. An owner under this subsection is not obligated to make payment on a contract

line item in the case of nonperformance or unsatisfactory

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COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 173, L.D. 529

	performance o	on that li	ne item.	When the	owner	determines	that
2	performance h	nas been d	completed o	or correct	ed for	that line	item
	and has acce	epted the	work on	the line	item,	the owner	must
4	authorize re	lease of	retained	payments	at the	e next re	gular
	requisition m	eeting und	er the cor	ntract and	pay in	accordance	with
б	subsection 7.						

4. Value of line item. The total of any payments retained under this subsection and subsection 3 may not exceed 5% of the value of the line item. When work on the line item is accepted as complete by the owner, the owner must pay in accordance with subsection 7.'

Further amend the bill in section 2 in that part designated "§1746-A." in subsection 5 in the 6th line from the end (page 2, line 44 in L.D.) by striking out the following: "assigned item" and inserting in its place the following: 'assigned line-item'

Further amend the bill in section 2 in that part designated "§1746-A." in subsection 8 in the 2nd line (page 3, line 18 in L.D.) by striking out the following: "public improvement" and inserting in its place the following: 'school construction'

Further amend the bill in section 4 in the first line (page 4, line 17 in L.D.) by striking out the following: "public improvement" and inserting in its place the following: 'school construction'

Further amend the bill in section 4 in the last line (page 4, line 19 in L.D.) by striking out the following: "2000" and inserting in its place the following: '2001'

Further amend the bill by inserting at the end before the summary the following:

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FISCAL NOTE

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The costs associated with these amended school construction contract and inspection procedures can be absorbed within the existing budgeted resources of the Department of Administrative and Financial Services. This bill will not appreciably affect school construction expenditures.'

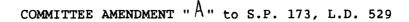
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46 SUMMARY

This amendment is the minority report. It makes several changes to the bill. Among other things, the amendment changes to the title of the bill and strikes from the bill any reference to

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COMMITTEE AMENDMENT



- state-owned public improvement projects. It retains the bill's application to school construction projects in excess of \$1,000,000. The amendment also adds new definitions to section 2
- 4 and further defines how contract line items are to be divided in calculating retainage. It also changes the application date to
- 6 January 1, 2001. The amendment also adds a fiscal note to the bill.

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COMMITTEE AMENDMENT

