2016 Regular Session

HOUSE BILL NO. 1078

BY REPRESENTATIVE GUINN

## LOCAL GOVERNMENT: Prohibits local governmental entities from imposing retainage fees on contracts

1	AN ACT
2	To amend and reenact R.S. 38:2248(A), relative to retained amounts on contracts for public
3	works; to provide relative to retained amounts for contracts for public works; to
4	provide relative to retainage bonds; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. R.S. 38:2248(A) is hereby amended and reenacted to read as follows:
7	§2248. Provisions for withholding payment; effect on liability of contractor or
8	agency; punch list
9	A. $(1)$ No contracts for the construction, alteration, or repair of any public
10	works executed in conformity with this Part shall provide that the state or any of its
11	agencies, boards, or subdivisions or any other public entity letting such a contract
12	may withhold payment of more than ten percent of the contract price on projects of
13	less than five hundred thousand dollars, and five percent of the contract price on
14	projects of five hundred thousand dollars or more until the expiration of forty-five
15	days after the recordation of formal acceptance of such work, or notice of default by
16	the contractor or subcontractor. Such provision for withholding of payment shall in
17	no way change or affect the liability of the letting agency or of the contractor,
18	subcontractor, or their sureties.
19	(2) The state or any of its agencies, boards, or subdivisions or any other
20	public entity letting a contract for the construction, alteration, or repair of any public

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	works executed in conformity with this Part shall not withhold payments in
2	accordance with Paragraph (1) of this Subsection if the contractor furnishes a
3	retainage bond equal to ten percent of the contract amount for projects less than five
4	hundred thousand dollars or five percent of the contract amount for projects of five
5	hundred thousand dollars or more.
6	* * *

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Provides that a public entity cannot withhold payments on a contract for public works if the contractor provides a retainage bond.

<u>Present law</u> provides that no contracts for the construction, alteration, or repair of any public works executed in conformity with present law shall provide that the state or any of its agencies, boards, or subdivisions or any other public entity letting such a contract may withhold payment of more than 10% of the contract price on projects of less than \$500,000, and 5% of the contract price on projects of \$500,000 or more until the expiration of 45 days after the recordation of formal acceptance of such work, or notice of default by the contractor or subcontractor.

<u>Proposed law</u> provides that <u>present law</u> does not apply if the contractor furnishes a retainage bond equal to 10% of the contract amount for projects less than \$500,000 or 5% of \$500,000 or more.

(Amends R.S. 38:2248(A))