

CHAPTER 53

GOVERNMENT - LOCAL

SENATE BILL 10-116

BY SENATOR(S) Kopp, Tochtrop, Carroll M., Scheffel, Tapia, Whitehead, Williams, Renfroe, Boyd, Cadman, Gibbs, Heath, Kester, Newell;
 also REPRESENTATIVE(S) Rice and Priola, Benefield, Casso, Gagliardi, Gerou, Kefalas, Kerr J., Liston, Middleton, Pommer, Riesberg, Soper, Vaad, Apuan, Labuda, Schafer S.

AN ACT**CONCERNING THE REIMBURSEMENT OF COSTS INCURRED ON CHANGE ORDERS IN PUBLIC WORKS CONTRACTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-91-103.6 (2), Colorado Revised Statutes, is amended to read:

24-91-103.6. Public entity - contracts - appropriations - change orders - severability. (2) Every public works contract, as defined in section 24-91-103.5 (1) (b), shall contain the following:

(a) A statement that the amount of money appropriated is equal to or in excess of the contract amount; ~~and~~

(b) A clause ~~which~~ THAT prohibits the issuance of any change order or other form of order or directive by the public entity requiring additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for the original contract, unless the contractor is given written assurance by the public entity that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision in the contract; AND

(c) FOR ANY FORM OF ORDER OR DIRECTIVE BY THE PUBLIC ENTITY REQUIRING ADDITIONAL COMPENSABLE WORK TO BE PERFORMED, A CLAUSE THAT REQUIRES THE PUBLIC ENTITY TO REIMBURSE THE CONTRACTOR FOR THE CONTRACTOR'S COSTS ON A PERIODIC BASIS, AS THOSE TERMS ARE DEFINED IN THE CONTRACT, FOR ALL ADDITIONAL DIRECTED WORK PERFORMED UNTIL A CHANGE ORDER IS FINALIZED. IN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NO INSTANCE SHALL THE PERIODIC REIMBURSEMENT BE REQUIRED BEFORE THE CONTRACTOR HAS SUBMITTED AN ESTIMATE OF COST TO THE PUBLIC ENTITY FOR THE ADDITIONAL COMPENSABLE WORK TO BE PERFORMED. NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH (C), STATE PUBLIC WORKS CONTRACTS SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 24-30-202.

SECTION 2. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 31, 2010