

By Mr. Hermann of North Andover, petition of William B. Golden and Robert Emmet Hayes for legislation to promote prompt payment by the Commonwealth for goods and services. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT PROMOTING THE PROMPT PAYMENT BY THE COMMONWEALTH FOR GOODS AND SERVICES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 29 of the General Laws is hereby amended by adding
2 at the end of section 29B thereof a new section as follows: —

3 Section 29C. In accordance with regulations promulgated by
4 the Secretary of Administration, and except as otherwise provided
5 by any other general or special law, each agency of the legislative,
6 executive, and judicial branches of the government of the
7 Commonwealth and political subdivisions thereof, the "Agency,"
8 which acquires property, goods, or services from architects,
9 engineers, consultants, and their subcontractors, the "Vendor,"
10 shall pay, in full, each invoice rendered pursuant to a properly
11 authorized and funded order or contract within thirty (30)
12 calendar days after its receipt.

13 For instances wherein there is any defect in an invoice
14 submitted, the Agency shall contact the Vendor within fifteen (15)
15 days after receiving the invoice. Such defects, if corrected within
16 five (5) working days after being contacted by the Agency, shall
17 not result in an extension of the thirty (30)-day period allowed
18 for payment by the Agency. If the above five (5)-day period is
19 exceeded by the Vendor, the thirty (30)-day period shall be
20 extended the same number of days.

21 Invoices not paid by the required payment date as defined above
22 shall accrue interest starting on the day after the required payment

23 date and ending on the day of payment, except that no interest
24 shall be paid if payment is made on or before the third day after
25 the required payment date.

26 Interest shall accrue at a rate to be set semi-annually by the
27 Secretary of Administration on January 1 and July 1 of each year.
28 Such rate shall be the discount rate charged on said dates by the
29 Federal Reserve Bank of Boston, plus three (3) percentage points.

30 The amount of interest due in accordance with this Act shall
31 be added to the principal amount of the invoice and shall be
32 compounded monthly.

33 The provisions of this Act do not constitute authorization for
34 the appropriation of additional funds for payment of interest
35 required in this Act. Any interest shall be paid from the funds
36 appropriated to the Agency which engaged the Vendor.

37 Retainage shall not be held from payment of invoices unless
38 specific deficiencies in the property, goods, or services provided
39 by the Vendor are cited in writing and the manner of calculation
40 described. Such retainage shall be considered due within ten (10)
41 days after the cause of the retainage has been eliminated through
42 negotiation between the Agency and the Vendor, and the
43 provisions of this Act shall then apply to such retainage.

44 A Vendor who has received payment of an invoice shall, in turn,
45 pay each subcontractor within ten (10) days the amounts due the
46 subcontractor, including the subcontractor's proportionate share
47 of any interest paid by the Agency as required by this Act.

48 Disputes arising from the provisions of this Act shall be
49 mediated. Disputes for which mediation is unsuccessful shall be
50 resolved in accordance with applicable laws of the
51 Commonwealth.

52 This Act shall apply to all property, goods or services acquired
53 ninety (90) days after the date on which this Act is passed.
54 Provisions shall be included in each order or contract to inform
55 the vendor and its subcontractors of the requirements of this Act
56 and the rules to be followed for mediation of disputes.

57 The Secretary of Administration shall promulgate such
58 regulations as may be required to put this Act into effect.