

By Mr. Kenneally, a petition of George V. Kenneally, Jr., and Gordon E. Gaffney for legislation to authorize state departments and agencies to make equitable adjustments in contracts entered into on a unit price basis. State Administration.

The Commonwealth of Massachusetts

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

AN ACT TO AUTHORIZE STATE DEPARTMENTS AND AGENCIES TO MAKE
EQUITABLE ADJUSTMENTS IN CONTRACTS ENTERED INTO ON A UNIT
PRICE BASIS.

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

1 Section 20 A of chapter 29 of the General Laws, as most re-
2 cently amended by chapter 509 of the acts of 1967, is hereby
3 further amended by inserting at the end thereof the following
4 new paragraph:—

5 On construction contracts entered into on behalf of the
6 Commonwealth by any official, board, department, commission
7 or agency thereof which provide that payments for the work
8 shall be made on a unit price basis, if it is discovered by the
9 contractor or the contracting authority after the contract has
10 been awarded and while the work is in progress that the actual
11 sub-surface or latent physical conditions encountered at the
12 site differ substantially and materially from those shown on
13 the plans or indicated in the contract documents, either the
14 contractor or the contracting authority may request an equit-
15 able adjustment in the unit prices of the contract applying to
16 items of work affected by the differing site conditions. Such
17 requests for an adjustment in contract unit prices shall be
18 made promptly in writing and shall be delivered by the party
19 making such claim to the other party as soon as possible after
20 such conditions are discovered. Upon receipt of such a claim
21 from a contractor, or upon its own initiative, the contracting

22 authority shall make an investigation of such conditions and if
23 they do differ materially and substantially from those shown on
24 the plans or indicated in this contract documents and are of
25 such a nature as to cause an increase or decrease in the cost
26 of performance of the work, or a change in the construction
27 methods required for performance of the work which results
28 in an increase or decrease in the cost of the work, said con-
29 tracting authority shall make an equitable adjustment in the
30 unit prices and the contract shall be modified in writing accord-
31 ingly. Any such contracting authority which awards contracts
32 on a unit price basis may adopt reasonable rules or regulations
33 in conformity with this section concerning the filing, investiga-
34 tion and settlement of such claims.