

# HOUSE . . . . . No. 1413

By Mr. Randall of Framingham, petition of John F. Maguire, Jr., and others that provision be made for methods of payment by the Commonwealth or political subdivisions thereof for consulting services performed by architects and engineers. Public Service.

## The Commonwealth of Massachusetts

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

### AN ACT PROVIDING FOR METHODS OF PAYMENT ON PUBLIC CONSULTING SERVICES PERFORMED BY ARCHITECTS AND ENGINEERS.

*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 30 of the General Laws is hereby amended by insert-  
2 ing after section 39K the following section:—

3 *Section 39L.* Every contract for architectural and/or con-  
4 sulting engineering services rendered in connection with study,  
5 investigation, surveys and design of construction, reconstruc-  
6 tion, alteration, remodeling, repair, improvement or demolition  
7 of any public buildings, public ways, bridges and other highway  
8 structures, sewers and water mains, airports, depots, facilities  
9 and all similar public works by the commonwealth or any  
10 agency or political subdivision thereof, or by any other county,  
11 city, town, district, board, commission or other public body,  
12 shall contain the following paragraphs:—

13 Within fifteen days (twenty-four days in the case of the com-  
14 monwealth) after receipt from the architect or consulting en-  
15 gineer, at the place designated by the awarding authority, if  
16 such place is so designated, of a periodic estimate requesting  
17 payment of the amount due for the preceding month, the award-  
18 ing authority will make a periodic payment to the architect or  
19 consulting engineer for the work performed during the preced-  
20 ing month, less (one) a retention based on its estimate of the  
21 fair value of its claims against such architect or consulting en-

22 gineer, and less (two) a retention not exceeding five per cent of  
23 the approved amount of the periodic payment. After the re-  
24 ceipt of a periodic estimate requesting final payment and within  
25 sixty-five days after the architect or consulting engineer fully  
26 completes the work called for by the contract or substantially  
27 completes the work so that the value of the work remaining to  
28 be done is, in the estimate of the awarding authority, less than  
29 one per cent of the original contract price, the awarding au-  
30 thority shall pay the architect or consulting engineer the entire  
31 balance due on the contract less a retention based on its estimate  
32 of the fair value of its claims against architect or consulting  
33 engineer and of the cost of completing the incomplete and un-  
34 satisfactory items of work. If the awarding authority fails to  
35 make payment as herein provided, there shall be added to each  
36 such payment daily interest at the rate of six per cent per annum  
37 commencing on the first day after said payment is due and con-  
38 tinuing until the payment is delivered or mailed to the architect  
39 or consulting engineer provided that no interest shall be due,  
40 in any event, on the amount due on a periodic estimate for final  
41 payment until fifteen days (twenty-four days in the case of the  
42 commonwealth) after receipt of such periodic estimate from the  
43 architect or consulting engineer at the place designated by the  
44 awarding authority if such place is designated.

45 The awarding authority may make changes in any periodic  
46 estimate submitted by the architect or consulting engineer and  
47 the payment due on said periodic estimate shall be computed in  
48 accordance with the changes so made, but such changes or any  
49 requirement for a corrected periodic estimate shall not affect  
50 the due date for the periodic payment or the date for the com-  
51 mencement of interest charges on the amount of the periodic  
52 payment computed in accordance with the changes made, as  
53 provided herein; provided, that the awarding authority may,  
54 within seven days after receipt, return to the architect or con-  
55 sulting engineer for correction, any periodic estimate which is  
56 not in the required form or which contains computations not  
57 arithmetically correct and, in that event, the date of receipt of  
58 such periodic estimate shall be the date of receipt of the cor-  
59 rected periodic estimate in proper form with arithmetically cor-  
60 rect computations. The date of receipt of a periodic estimate  
61 received on a Saturday shall be the first working day thereafter.