

PUBLIC COMMENTS

HB 692

HOUSE COMMITTEE ON STATE AFFAIRS

Hearing Date: April 1, 2021 8:00 AM

Paul Jacques`, Dr

gfs

Forth Worth, TX

Will this bill affect Texas debt relief programs? As illustrated on the Texas debt relief page at GFS? <https://goldenfs.org/debt-relief/texas-debt-relief/>

Lenda lansford

Me myself and I

string:BANGS, TX

Beto in No way represents me! I am opposed to any mileage tax!!!

BUILD OUR WALL!!!

Linda Christie, Govt Affairs Director

Tarrant Regional Water District

FORT WORTH, TX

Fort Worth-based TRWD is one of the largest suppliers of raw water in the State of Texas.

Part of TRWD's core mission involves large construction projects, including major critical infrastructure projects vital to addressing the region's water supply and flood control needs. These high-stakes projects must be constructed correctly. Thus, a stable and balanced set of legal guidelines is essential.

TRWD's concerns are:

- Proposed retainage limits and project threshold caps for withholding retainage are problematic. Major water supply projects utilize more than five percent retainage, which we believe is a reasonable practice in light of the critical nature of our projects. We also believe the bill's \$1 million threshold above which retainage could not be withheld is artificially low for large water projects, which may literally cost billions in the aggregate to construct.
- HB 692 as filed conflicts with the retainage provisions of law applicable to TRWD. TRWD is primarily governed by Chapter 49 of the Texas Water Code. Section 49.276, Water Code, expressly requires 10% retainage. HB 692 as filed directly conflicts with this mandate. Separately, the Texas Property Code requires owners to retain 10% in construction contracts. HB 692 as filed also directly conflicts with this requirement.
- Retainage remains a critical tool for ensuring the integrity of high-stakes water projects. A primary reason for retainage is the protection of owners, subcontractors and suppliers from defaulting general contractors. If subcontractors and suppliers are unpaid, they often cannot or will not complete their work, which has a significant negative effect on public projects. Although it is true that payment bonds are intended to protect public entities from such defaults, our experience is that bond claims greatly delay the construction process and the leverage of withholding retainage achieves better results. For example, TRWD has been forced to sue at least one surety for failing to honor its obligations, which resulted in lengthy litigation and which required TRWD to expend additional public funds to complete the project at issue with substitute contractors.
- HB 692 is silent on the use of retainage to address unpaid subcontractor claims. For example, under HB 692 retainage could not be withheld even if the owner has received multiple claims from subcontractors for unpaid work – it may only be withheld for reasons based on the quality of work.

We understand and agree that there is potential for abuse with retainage, and it should never be used to extract exactions

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to which the governmental entity is not contractually or lawfully entitled.

As a major regional raw water supplier with vital infrastructure projects, TRWD greatly appreciates the opportunity to submit comments on these important issues and is committed to working with the bill author and members of the committee to address our concerns with HB 692 as filed.