

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 10-0688.01 Troy Bratton

SENATE BILL 10-116

SENATE SPONSORSHIP

Kopp, Tochtrop, Carroll M., Scheffel, Tapia, Whitehead, Williams

HOUSE SPONSORSHIP

Rice and Priola, Benefield, Casso, Gagliardi, Gerou, Kefalas, Kerr J., Liston, Middleton, Pommer, Riesberg, Soper, Vaad

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REIMBURSEMENT OF COSTS INCURRED ON CHANGE**
102 **ORDERS IN PUBLIC WORKS CONTRACTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

The bill adds a required clause to any contract between a public entity and a contractor or designer for a public works project. The new clause requires the public entity to pay the contractor on a periodic basis for any costs incurred by the contractor for work performed until the change order is finalized.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

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

4 **24-91-103.6. Public entity - contracts - appropriations - change**
5 **orders - severability.** (2) Every public works contract, as defined in
6 section 24-91-103.5 (1) (b), shall contain the following:

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

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

17 (c) FOR ANY FORM OF ORDER OR DIRECTIVE BY THE PUBLIC ENTITY
18 REQUIRING ADDITIONAL COMPENSABLE WORK TO BE PERFORMED, A
19 CLAUSE THAT REQUIRES THE PUBLIC ENTITY TO REIMBURSE THE
20 CONTRACTOR FOR THE CONTRACTOR'S COSTS ON A PERIODIC BASIS, AS
21 THOSE TERMS ARE DEFINED IN THE CONTRACT, FOR ALL ADDITIONAL
22 DIRECTED WORK PERFORMED UNTIL A CHANGE ORDER IS FINALIZED. IN NO
23 INSTANCE SHALL THE PERIODIC REIMBURSEMENT BE REQUIRED BEFORE
24 THE CONTRACTOR HAS SUBMITTED AN ESTIMATE OF COST TO THE PUBLIC
25 ENTITY FOR THE ADDITIONAL COMPENSABLE WORK TO BE PERFORMED.
26 NOTHING IN THIS PARAGRAPH (c) SHALL BE CONSTRUED AS RESTRICTING,

1 SUPERSEDING, ABROGATING, CONTRAVENING, OR MODIFYING ANY
2 PROVISION OF SECTION 24-30-202.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part shall not take effect
10 unless approved by the people at the general election to be held in
11 November 2010 and shall take effect on the date of the official
12 declaration of the vote thereon by the governor.