

PRESS RELEASE
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Colorado Utility Contractors Can Cut Retainage In Half *NUCA's Work to Reduce Fees To 5% Pays Off for Members*

(Broomfield, Colo.) – Colorado utility contractors are very pleased with a new bill signed by Colorado Gov. Jared Polis that will reduce their contract retention by half.

“This change to contract law in Colorado will greatly benefit small and midsized contractors. The increase in cash flow for these contractors will allow them to grow by reinvesting in equipment and personnel,” said Rob Willis, Governmental Affairs Chair, NUCA Colorado.

Gov. Polis signed HB21-1167, “Private Construction Contract Payments,” on May 17, with the bill taking effect 90 days after the state legislature adjourns. NUCA of Colorado expect the bill to take effect in mid-September 2021.

This new law will allow industry contractors and subcontractors to cut their retainage in half on private contracts. Retainage can be part of a construction contract where payment for a percentage of the value of completed work is withheld until completion of the project. In Colorado, that amount is typically around 10% of the total contract.

This arrangement grew out of a perception that retainage provided a level of protection to property owners, as well as giving incentives for proper and timely completion of the work. However, the profit margins in utility construction projects can be very thin and cash management is essential to a contractor's success. Withholding retainage at this level has created a significant financial strain on contractors and subcontractors.

State utility subcontractors commonly carry hundreds of thousands of dollars in retainage and wait on average more than five months, and often up to a couple years, for payment of retainage. During that time, they are responsible for 100% of project costs. Funds tied up in retainage result in contractors being unable to take on new projects, hire new employees, or buy new equipment. They must borrow money to make up for delayed capital while expending overhead resources on collection of the owed retainage. And in many cases the property owner will not negotiate with a construction company to reduce this payment to a more reasonable level that benefits the company and its employees.

This new law prohibits a property owner from withholding from a contractor more than 5% of a private contract's price to ensure the work is satisfactorily completed. The law also prohibits contractors and subcontractors from withholding more than 5% from subcontractors and suppliers. This applies to contracts over \$150,000, or when there is an agreement to withhold retainage payments in a contract. It does not apply to contracts with public entities or building single-family or small multi-family dwellings.

NUCA of Colorado and its Colorado Contractors Coalition partners (ColoradoContractorsCoalition.com) worked with several state representatives and senators to shepherd this important industry bill through the state house. Reps. Duran and Will, and Sens. Gonzales and Scott are to be commended for their support and efforts to educate their colleagues about this unnecessary expenditure for small- and medium-sized construction businesses.

American Subcontractors Association Colorado, Colorado Roofing Association, National Utility Contractors Association of Colorado, Rocky Mountain Steel Construction Association

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About the National Utility Contractors Association of Colorado

As the only trade association dedicated solely to the utility construction business, NUCA of Colorado is the preeminent place to come together with other industry professionals to grow and develop, listen and communicate, and share best practices in a spirit of trust and cooperation. NUCA of Colorado offers its members the opportunity to build relationships and create unique business opportunities, stay up-to-date on the latest industry news, and participate in shaping industry-related legislation.