



**BOSTON CHAPTER**  
**NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION**  
Electrical Contractors Association of Greater Boston, Inc.

---

106 River Street • West Newton, Massachusetts 02465 • Tel. 617-969-2521 • Fax 617-969-5455 • E-mail: info@bostonneca.org

Glenn W. Kingsbury, Executive Manager

November 14, 2011

Senator Daniel A. Wolf  
Joint Committee on Labor and Workforce Development  
State House, Room 511B  
Boston, MA 02133

Representative Cheryl A. Coakley-Rivera  
Joint Committee on Labor and Workforce Development  
State House, Room 39  
Boston, MA 02133

Dear Chairman Wolf and Chairwoman Coakley-Rivera:

I am writing on behalf of the National Electrical Contractors Association (NECA) of Greater Boston in support of H.1401 and S.956, "An Act Relative to Fair Retainage Payments in Private Construction." Our organization has over 100 electrical contractor company-members who in turn employ thousands of workers – all members of the International Brotherhood of Electrical Workers (IBEW) - in well-paying jobs.

"Retainage" represents funds withheld from each progress payment for work on a construction project to ensure full and satisfactory completion. It is typically 10 percent or more of the contract's value and is often not released for months and even years after the contractor completes the project. Delayed retainage payments cause significant cash flow problems – amplified during the worst recession in recent memory – as it increases a contractor's carrying costs. Subcontractors shoulder most of the tab for labor and materials, and must keep financing their work while waiting months to get paid.

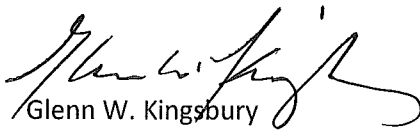
H.1401/S.956 sets a reasonable five percent cap on retainage withholdings, requires payment of retainage 30 days after a project's "substantial completion," and promotes fairness by allowing retainage funds to be held back because of incomplete or defective work. Nationwide, 22 states have laws limiting retainage – usually at five percent or less – on private construction, while 44 states have laws governing retainage on public construction. Some states and the federal government have abolished it altogether.

In November 2010, Massachusetts enacted "An Act to Promote Fairness in Private Construction," otherwise known as the Prompt Pay Law. It speeds up progress payments on construction jobs, but does not address retainage. H.1401/S.956 perfectly complements the Prompt Pay Law, includes similar procedural processes and avoids many of the controversial options proposed elsewhere.

Clearly, retainage as it is currently implemented puts businesses and jobs at risk in an industry struggling to recover from a multi-year economic beating. NECA Boston respectfully asks your committee to report H.1401/S.956 favorably.

Kindly call me if you need more information or have further questions about our position.

Sincerely,

  
Glenn W. Kingsbury