

House Bill 68
Proponent Testimony
National Electrical Contractors Association

Chairman Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan and members of the House Commerce and Labor Committee:

My name is Tom Shreves and I am Executive Director of the Greater Cleveland Chapter of the National Electrical Contractors Association (NECA). NECA represents closed-shop, union electrical contractors throughout the country. Our members are subcontractors who perform primarily commercial and industrial work. We are small businessmen and women who install electrical systems in everything from schools, to sports stadiums to the Statehouse. NECA is proud to support HB 68 and thanks Representatives Cross and Sweeney for their introduction of this important bill.

As was discussed extensively in sponsor testimony, HB 68 closes a gap in Ohio's prompt pay statutes to require prompt payment between private owners of construction projects and their general contractors. State law already addresses payments between general contractors, their subcontractors and lower tier subcontractors on private work, and already addresses payments at every level of public work. Thus, arguments that this is somehow an intrusion of government into private business ring hollow, as statutes already exist to address prompt pay in other situations.

The need for this legislation is fairly self-evident. Contractors need to be paid for the work they have completed. What might surprise you, however, is to know what a low margin business construction is. Any delay in payment puts most small and even medium sized contractors at significant risk to meet basic business expenses like payroll and materials. Perhaps equally significant is its impact on future jobs.

Estimating and bidding construction projects is a time consuming and expensive proposition. With money being withheld for work that has been completed, contractors find themselves with little resources to pursue their next project. In that regard, HB 68 is really about economic development, and keeping contractors bidding on new work, and maintaining their workforce.

One final issue I would like to address in retainage, which came up during questions and answers with the sponsors. First, to clarify, retainage is a legally required withholding of a portion of a contractors money by a higher tiered contractor. Typically, retainage amounts to 8-10% of the total contract. Ostensibly, the money is held to assure that a project, or part of a project, has been completed before being released, although one could argue that bonding requirements and insurance already offer these protections.

Retainage and prompt pay are very closely related, but are in fact, separate issues. HB 68 does not address retainage although in the past 20 years several pieces of legislation have been debated in the legislature that would. Abuses of retainage are every bit as frequent as those being corrected in HB 68, perhaps even more frequent. As discussed above 8-10% of a job represents multiple times what the profit amounts to, so any delay in the release of retainage puts contractors at significant risk and creates the same problems that HB 68 addresses. I would be happy to share more information with the committee about how issues around retainage could be simply and easily resolved.

Mr. Chairman this concludes my remarks. Thank you for the opportunity to offer testimony on behalf of NECA.