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**ASSEMBLY BILL NO. 393**

**TESTIMONY IN FAVOR OF ASSEMBLY BILL 393, AS AMENDED**

Submitted by Steve G. Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter, 150 N. Durango Dr., Suite 100, Las Vegas, NV 89145 on behalf of the Associated General Contractors, Framing Contractors Association, National Association of Minority Contractors and National Association of Women in Construction.

I would like to reiterate that AB 393 still allows a public body to withhold all or a portion of a progress payment if it deems the work to be unsatisfactory. Furthermore, it allows a public body to withhold any payment due the contractor and pay the Labor Commissioner instead if the Labor Commissioner believes that an employee has a valid and enforceable claim for wages.

I would also like to point out that every public works project is bonded. The Nevada Revised Statutes require that the general contractor awarded a public works project provide a performance and payment security bond for 100 percent (100%) of the contract price. Furthermore, the general contractor may require that every subcontractor on the project provide a payment bond for the labor indebtedness that the subcontractors may incur. These bonds remain in effect for a year after the project has been satisfactorily completed.

The 5 to 10 percent of the contract price withheld by a public body on a public works project as retainage is therefore redundant. It is unnecessary. Nevertheless, AB393 allows a public body to continue to withhold retainage to ensure that a public work, e.g. a pump station, works as intended when completed, even though the public body has approved each and every step taken to construct that public work.

AB 393 does reduce the amount of retainage that a public body may withhold and prohibit other additional withholdings that are both unnecessary and dilutory.

Waiting to speak are contractors who will testify that public bodies are currently withholding in the form of retainage and other additional withholdings as much as 30 percent (30%) of the contract price. These additional withholdings not only violate the intent of the prompt pay act for public works which this body passed in 1999, they also affect the general contractors ability to promptly pay his subcontractors for the labor, materials and equipment expended on the public works project.

Also waiting to speak are representatives of the Security Association who will testify that these practices are affecting the bonding capacity of contractors and their ability to bid on public works. As a result, the dilutory withholdings that AB 393 proposes to prohibit are dramatically increasing the costs of all public works.

We believe that Assembly Bill 393, which was unanimously passed by the Assembly, has the support of the great majority of the affected parties and ask that you too support it.

Thank you.