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In public contracting for construction projects, agencies are permitted to withhold a portion of a payment due to a contractor until the work is substantially complete. Withholding these funds helps to ensure that the construction project is completed satisfactorily and according to the terms of the contract.

The amount withheld is called a “retainage.” In Minnesota law, retainage is capped at five percent of the payment due.

This bill requires a public agency to release the retainage or final payment due on a project within 45 days after the prime contractor’s work is substantially complete.

The bill also provides a cap on the amount that may be withheld based on the value of incomplete or defective work, at 150 percent of the value of that work. These amounts must be paid within 45 days after completion of the work.

A project is “substantially complete” when the project can be occupied or used by the agency or the public for its intended purpose.