

Fiscal Note

State of Alaska
2026 Legislative Session

Bill Version: HB 389
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB389-DOT-CON-05-1-2026
Title: RETAINAGE ON CONSTRUCTION CONTRACTS
Sponsor: LABOR & COMMERCE
Requester: HOUSE LABOR & COMMERCE

Department: Department of Transportation and Public Facilities
Appropriation: Administration and Support
Allocation: Contracting and Appeals
OMB Component Number: 2355

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2027	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2027 Request	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
OPERATING EXPENDITURES	FY 2027	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2026) cost: 0.0 *(separate supplemental appropriation required)*

Estimated CAPITAL (FY2027) cost: 0.0 *(separate capital appropriation required)*

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Initial version, not applicable.

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Division: <u>Commissioner's Office</u>	Date: <u>05/01/2026</u>
Approved By: <u>Dom Pannone, Director</u>	Date: <u>05/01/26</u>
Agency: <u>Department of Transportation and Public Facilities</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2026 LEGISLATIVE SESSION

BILL NO. HB 389

Analysis

House Bill 389 (HB 389) would amend Alaska statutes governing retainage and prompt payment on public construction contracts by further limiting retainage practices, reinforcing payment timelines, expanding interest requirements, and strengthening enforcement provisions for prime contractors and subcontractors.

The Department of Transportation and Public Facilities (DOT&PF) administers construction contracts across highway, aviation, and public facilities programs, many of which are federally funded and subject to Federal Highway Administration (FHWA) and Federal Aviation Administration (FAA) requirements. These contracts already incorporate prompt payment requirements, subcontractor protections, and interest provisions under existing law. DOT&PF does not routinely apply retainage to progress payments. Instead, the Department utilizes withholding authority for unsatisfactory performance, incomplete work, or noncompliance. Under current Standard Specifications, withholding is distinct from retainage. HB 389 may create ambiguity as to whether existing withholding practices could be interpreted as retainage, which could constrain a primary contract administration tool used to ensure project compliance and completion.

The bill would reinforce and potentially shorten timelines for contractor and subcontractor payments and for release of retained funds. DOT&PF projects—particularly highway construction—often involve multi-season work, phased acceptance, and extended closeout processes driven by federal requirements and claims resolution. Accelerated timelines may create circumstances where payment is required prior to completion of all contractual or federal requirements, increasing administrative complexity and dispute potential.

HB 389 also expands interest provisions on unpaid amounts, including retainage, which may increase financial exposure in situations involving disputed work or incomplete documentation. While subcontractor prompt payment requirements are already incorporated into DOT&PF contracts, the bill may require additional documentation and oversight.

A significant portion of DOT&PF projects are federally funded. Federal requirements allow withholding for noncompliance and require verification prior to reimbursement. The bill's additional state requirements may create overlap with federal procedures and increase the risk of payment for nonconforming work, potentially affecting federal reimbursement eligibility and audit exposure.

Implementation would require revisions to Standard Specifications, updates to contract and accounting procedures, staff training, and increased legal and administrative review of payment decisions.

The fiscal impact is indeterminate but expected to be increased. The Department anticipates additional administrative workload related to compliance, documentation, and contract oversight. Potential cost drivers include increased staff time, system updates, and training. While direct capital costs are not anticipated, the bill may increase exposure to disputes, interest penalties, and administrative costs, particularly on federally funded projects.

Overall, HB 389 would increase administrative complexity and reduce flexibility in construction contract management by imposing more prescriptive statutory requirements governing retainage and payment practices.