

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

ENROLLED

Com. Sub. for
SENATE BILL NO. 123

(By Mr. *Jackson*, *Mr. President*,
original sponsor)

PASSED March 8, 1969

In Effect thirty days from Passage

#123

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-17-69

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 123

(MR. JACKSON, MR. PRESIDENT, *original sponsor*)

[Passed March 8, 1969; in effect ninety days from passage.]

AN ACT to amend chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three, relating to payment of interest on public construction contracts when final payment is delayed.

Be it enacted by the Legislature of West Virginia:

That chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three, to read as follows:

ARTICLE 3. INTEREST ON PUBLIC CONTRACTS.

**§14-3-1. Payment of interest by the state on contracts when
final payment is delayed.**

1 All public contracts let in accordance with article
2 three, chapter five-a of the code or let by the state board
3 of education, West Virginia Board of Regents, state
4 armory board, or by any other board, agency or commis-
5 sion of the state, entered into on and after March one, one
6 thousand nine hundred sixty-nine, except the state road
7 commissioner, shall contain the following paragraph:

8 "Within ninety days after the completion of this con-
9 tract is certified by the approving authority to be complete
10 in accordance with terms of the plans or specifications, or
11 both where appropriate, or is accepted by the authorized
12 spending officer as complete, or is occupied by the owner,
13 or is dedicated for public use by the owner, whichever
14 occurs first, the balance due the contractor herein shall
15 be paid in full. Should such payment be delayed for more
16 than ninety days beyond the day the completion of this
17 contract is certified by the authorized spending officer or
18 is accepted by the owner as complete, or is occupied by

19 the owner, or is dedicated for public use by the owner,
20 said contractor shall be paid interest, beginning on the
21 ninety-first day, at the rate of six per centum per annum
22 on any unpaid balance: *Provided*, That whenever the
23 approving authority reasonably determines that delay
24 in completing the contract or in accepting payment for
25 the contract is the fault of the contractor herein, the
26 approving authority may accept and use the commodities
27 or printing or the project may be occupied by the owner
28 or dedicated for public use by the owner without pay-
29 ment of any interest on amounts withheld past the ninety
30 day limit."

31 All public construction contracts relating to roads or
32 bridges let by the state road commissioner, entered into
33 on and after March one, one thousand nine hundred sixty-
34 nine, shall contain the following paragraph:

35 "Within one hundred fifty days after the approving
36 authority notifies the contractor, in writing, of the final
37 acceptance by such approving authority of the project for
38 which this contract provides, the balance due the prime
39 contractor shall be paid in full. Should such payment be

40 delayed for more than one hundred fifty days beyond the
41 date that the approving authority notifies the contractor
42 of the final acceptance of the project in accordance with
43 the terms of the contract and the plans and specifications
44 thereof, said prime contractor shall be paid interest, be-
45 ginning on the one hundred fifty-first day, at the rate of
46 six per centum per annum on such unpaid balance: *Pro-*
47 *vided*, That if the prime contractor does not agree to the
48 amount of money determined by the approving authority
49 to be due and owing to the prime contractor and set forth
50 on the final estimate document, and the approving author-
51 ity makes on offer to pay the amount of the final estimate
52 to the said prime contractor, then the prime contractor
53 shall not be entitled to receive any interest on the amount
54 set forth in said final estimate, but shall only be entitled
55 to the payment of interest at the rate of six per centum
56 per annum on the amount of money finally determined
57 to be due and owing to the said prime contractor, less the
58 amount of the final estimate that the approving authority
59 had originally offered to pay to the said prime contractor.”

§14-3-2. Approving authority.

1 The approving authority provided for in section one
2 of this article shall be the contracting state board, agency
3 or commission or its authorized spending officer; except,
4 in the case of contracts let by the state road commissioner
5 relating to roads and bridges, the approving authority
6 shall be the state highway engineer.

§14-3-3. Source of funds for payment of interest.

1 Payment of interest as provided by this article shall be
2 made from the same appropriation or other source from
3 which the principal debt under the contract is to be paid.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tanager

Chairman Senate Committee

Clayton C. Davidson

Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Myers

Clerk of the Senate

A Blankenship

Clerk of the House of Delegates

Henry B. Jackson

President of the Senate

Don J. Buran

Speaker House of Delegates

The within approved this the 17th
day of March, 1969.

Arch A. Starnes Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/13/69

Time 3:15 p.m.