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Prompt pay: Supporting small business and protecting jobs

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For all the years I have been involved with the Associated Subcontractors of Massachusetts, there has been one issue that has galvanized subcontractors and dominated discussions: the difficulty of getting paid in a timely way for work performed. Subcontractors typically must wait two to three months, and often much longer, to receive payment for their work, simply because there is nothing to force faster turnaround. Yet during all that time, they have to continue to buy materials and meet weekly payroll, essentially financing the project themselves. The way contracts are written, they can't stop work if they are not getting paid, and there is always risk they won't be paid at all.

A bank economist once commented at an ASM meeting he knew of no other industry with payment delays as bad as in construction. Waiting so long for payment creates serious cash flow issues for small businesses, which is a problem even in the best of times. In today's economy, the situation is worse, causing some companies to go under, forcing others to the brink, and putting workers on the street.

Five years ago, ASM members decided to do something about this widespread industry problem, and set to work on legislation to bring relief. It has been a long road, but today ASM's newly-revised, two-page "prompt pay" bill, H4721, is advancing on Beacon Hill, and gathering support. Designed to be fair and reasonable to all parties, the bill simply requires that decisions be made in a reasonable time on approval or rejection of payment requests, including payment requests for change order work. It also sets limits on the use of contract terms to avoid payment responsibility altogether. And for the first time, it allows contractors and subcontractors to suspend work if not paid in a reasonable time. It is a bill designed to keep the payment process moving and funds flowing to the benefit of all parties, including building owners, who will get better pricing from contractors who know they will be paid on time.

The ASM proposal, supported by many unions and equipment suppliers, is not a new concept. In fact 32 other states have already passed similar "prompt pay" laws, including New York, Connecticut and New Jersey, among others. From all reports, the laws there work well. H4721 is far more modest in scope, yet promises to be equally effective. The time is long past due for "prompt pay" to come to Massachusetts - to support the small businesses of our state, and keep people employed.

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