

# HOUSE . . . . . No. 3261

By Mr. Wagner of Chicopee, petition of Joseph F. Wagner and Steven A. Baddour for legislation to provide for cost efficient construction by contract awarding authorities of the Commonwealth. State Administration and Regulatory Oversight.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO COST EFFICIENT CONSTRUCTION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 30 of the General Laws, as appearing in the 2004 Offi-  
2 cial Edition, is hereby amended by striking out section 39O and  
3 inserting in place thereof the following section:—

4 Section 39O. Contracts for construction and materials; suspen-  
5 sion, delay or interruption due to order of awarding authority;  
6 adjustment in contract price; written claim

7 Section 39O. Every contract subject to the provisions of  
8 section 39M of this chapter or subject to section 44A of  
9 chapter 149 shall contain the following provisions (a), (b) and (c)  
10 in their entirety.

11 (a) The awarding authority may, by written order, direct the  
12 general contractor in writing to suspend, delay or interrupt all or  
13 any part of the work for such period of time as it may determine  
14 to be appropriate for the convenience of the awarding authority.  
15 In the event the awarding authority issues such written order, or in  
16 the absence of a written order, the performance of all or any part  
17 of the work is suspended, delayed, disrupted or interrupted for a  
18 period of 10 days, either consecutive or in the aggregate, for any  
19 reason provided in subsections (1), (2) or (3) below, the awarding  
20 authority shall make an adjustment in the contract price for any  
21 increase in the cost of performance of this contract, but shall not  
22 include any profit to the general contractor on such increase.

23 (1) Any act, error or omission of the awarding authority, its  
24 agents or consultants, in the administration of the contract; or

25 (2) Any failure of the awarding authority, its agents or consul-  
26 tants, to act within a reasonable time in the administration of the  
27 contract; or

28 (3) Any act, error, or omission of a utility, railroad, government  
29 entity or other third party not caused by the general contractor.

30 (b) The general contractor shall notify the awarding authority in  
31 writing as soon as practicable of any suspension, delay, disruption  
32 or interruption as provided in provision (a) above and must submit  
33 in writing, as soon as practicable, the amount of a claim arising  
34 pursuant to provision (a).

35 (c) In the event a suspension, delay, disruption or interruption  
36 as provided in provision (a) above increases the cost of perfor-  
37 mance to any subcontractor, said subcontractor shall have the  
38 same rights against the general contractor for payment for an  
39 increase in the cost of his performance as provisions (a) and (b)  
40 give the general contractor against the awarding authority, but  
41 nothing in provisions (a) and (b) shall in any way change, modify  
42 or alter any other rights which the general contractor or the sub-  
43 contractor may have against each other.