

HOUSE No. 3618

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Certification of Funds for Construction Contracts..

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

1 SECTION 1. Section 31C of Chapter 44 of the General Laws, as appearing in the 2006
2 Official Edition, is here by amended by striking out said section and inserting in place thereof the
3 following new Section:

4 Section 31C. No contract for the construction, reconstruction, alteration, remodeling,
5 repair or demolition of any public building or public work by any public agency, as defined in
6 G.L. c. 149 (44A(1), costing more than two thousand dollars shall be deemed to have been made
7 until the auditor or accountant or other officer of the public agency having similar duties has
8 certified thereon that an appropriation in the amount of such contract is available therefore and
9 that an officer or agent of the public agency or awarding authority has been authorized to execute
10 said contract and approve all requisitions and change orders. No order to the contractor for a
11 change in or addition to the work to be performed under a contract subject to this section,
12 whether in the form of a drawing, plan, detail or any other written instruction, unless it is an
13 order which the contractor is willing to perform without any increase in the contract price, shall
14 be deemed to have been given until the auditor or accountant, or other officer of the public

15 agency having similar duties, has certified thereon that an appropriation in the amount of such
16 order is available therefore; but such certificate shall not be construed as an admission by the
17 public agency of its liability to pay for such work. The construction or the additional change
18 order work shall not commence unless such certificate has been provided. The certificate of the
19 auditor or accountant or other officer of the public agency having similar duties, that an
20 appropriation in the amount of such contract or order is available shall bar any defense by the
21 public agency on the grounds of insufficient appropriation; and any law barring payment in
22 excess of appropriations shall not apply.