

HOUSE No. 3032

The Commonwealth of Massachusetts

PRESENTED BY:

William C. Galvin

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to timely public payments for work not included in original construction contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>1/10/2023</i>

HOUSE No. 3032

By Representative Galvin of Canton, a petition (accompanied by bill, House, No. 3032) of William C. Galvin relative to timely payments for work not included in public construction contracts. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3145 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to timely public payments for work not included in original 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 39G of chapter 30 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the sixth paragraph the following
3 paragraph:-

4 The awarding authority shall pay for all work: (1) performed pursuant to a signed Time
5 and Materials itemized invoice (T&Ms), Extra Work Orders (EWOs) and Notice To Proceed
6 (NTPs); all are contract modification, as defined in section 17 of chapter 7C, or (2) on a time and
7 materials basis in the manner provided by this section. Must be paid within Sixty five days. For
8 the purposes of this section, time and materials basis shall mean the amount of time invested in
9 performing the contract and the cost of the materials used in the performance of the contract.

10 SECTION 2. Section 39K of chapter 30 is hereby amended by adding the following
11 paragraph:-

12 The awarding authority shall pay for all work performed pursuant to a signed Time and
13 Material itemized invoice (T&Ms), Extra Work Orders (EWOs) and Notice To Proceed (NTPs);
14 all are contract modification, as defined in section 17 of chapter 7C, or (2) on a time and
15 materials basis in the manner provided by this section. Must be paid within Sixty five days as
16 defined in section 17 of chapter 7C, or (2) on a time and materials basis in the manner provided
17 by this section. For the purposes of this section, time and materials basis shall mean the amount
18 of time invested in performing the contract and the cost of the materials used in the performance
19 of the contract.

20 SECTION 3. Chapter 30 of the General Laws is hereby amended by adding the following
21 section:-

22 Section 39U. Payment for Work Not Included in the Original Contract

23 Every contract subject to section 44A of chapter 149 or subject to section 39M of chapter
24 30 or subject to chapter 149A, and every subcontract or trade contract as applicable, shall
25 provide a reasonable time period within which a written request submitted by a person seeking
26 an increase in the contract price shall be approved or rejected, whether in whole or in part. The
27 time period shall not exceed 30 days after the later of commencement of the performance of the
28 work on which the request is based or submission of the written request; provided, however, that
29 the time period, as applicable to approval or rejection by the person at each tier of contract below
30 the owner of the project, may be extended by 7 days more than the time period applicable to the
31 person at the tier of contract above the person. A request which is neither approved nor rejected

32 within such time period shall be deemed to be approved and may be submitted for payment
33 within the next application for a periodic progress payment, unless it is rejected before the date
34 payment if due. A rejection of a request, whether in whole or in part, shall be made in writing,
35 shall include an explanation of the factual and contractual basis for the rejection and shall be
36 certified as made in good faith. A rejection of a request shall be subject to the applicable dispute
37 resolution procedure. A provision in the contract which requires a party to delay commencement
38 of the procedure until a date later than 60 days after the rejection shall be void and
39 unenforceable.