

2nd Sub. H.B. 503
CONSTRUCTION AMENDMENTS

Representative **Michael T. Morley** proposes the following amendments:

1. *Page 1, Line 21:*

- 21 • any other entity that provides or collects for labor; {~~and~~}
- requires a construction contract to contain a differing site conditions clause; and**

2. *Page 8, Lines 228 through 239:*

228 53A-20-109. Required contract terms.

229 {~~(1) As used in this section, "differing site conditions clause" means a clause in a~~

230 ~~construction contract that provides for an equitable adjustment to the contract in the event that~~

231 ~~the contractor discovers, and promptly reports to the government entity that contracted for the~~

232 ~~construction, the existence on the construction site of any of the following that were not known~~

233 ~~by the contractor at the time the contract was executed:~~

234 ~~——(a) subsurface or latent physical conditions that differ materially from the conditions~~

235 ~~indicated in the contract; or~~

236 ~~——(b) physical conditions of an unusual nature that differ materially from those ordinarily~~

237 ~~encountered for the type of construction or for the location of the construction site.~~

238 ~~——(2) A contract for the construction of a school building shall contain a differing site~~

239 ~~conditions clause. }~~

A contract for the construction of a school building shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:

(1) the contractor did not know existed, and should not have known existed, at the time that the contract was executed; and

(2) materially impacts the costs of construction.

3. *Page 11, Lines 308 through 319:*

308 {~~(6) (a) As used in this Subsection (6), "differing site conditions clause" means a clause~~

309 ~~in a construction contract that provides for an equitable adjustment to the contract in the event~~

310 ~~that the contractor discovers, and promptly reports to the public procurement unit that~~

311 ~~contracted for the construction, the existence on the construction site of any of the following~~

312 ~~that were not known by the contractor at the time the contract was executed:~~

313 ~~——(i) subsurface or latent physical conditions that differ materially from the conditions~~

314 ~~indicated in the contract; or~~

315 ~~——(ii) physical conditions of an unusual nature that differ materially from those ordinarily~~

316 ~~encountered for the type of construction or for the location of the construction site.~~
317 ~~—— (b) Notwithstanding any provision of this chapter to the contrary, a contract for~~
318 ~~construction entered into by a public procurement unit shall contain a differing site conditions~~
319 ~~clause.}~~

(6) A contract for construction entered into by a public procurement unit shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:
(a) the contractor did not know existed, and should not have known existed, at the time that the contract was executed; and
(b) materially impacts the costs of construction.