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**SUBSTITUTE HOUSE BILL 1957**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representative Eddy; by request of Department of Transportation)

READ FIRST TIME 3/5/07.

1            AN ACT Relating to bond amounts for department of transportation  
2 highway contracts; amending RCW 39.08.030; and providing an expiration  
3 date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 39.08.030 and 2003 c 301 s 4 are each amended to read  
6 as follows:

7            (1) The bond mentioned in RCW 39.08.010 shall be in an amount equal  
8 to the full contract price agreed to be paid for such work or  
9 improvement, except under subsections (2) and (3) of this section, and  
10 shall be to the state of Washington, except as otherwise provided in  
11 RCW 39.08.100, and except in cases of cities and towns, in which cases  
12 such municipalities may by general ordinance fix and determine the  
13 amount of such bond and to whom such bond shall run: PROVIDED, The  
14 same shall not be for a less amount than twenty-five percent of the  
15 contract price of any such improvement, and may designate that the same  
16 shall be payable to such city, and not to the state of Washington, and  
17 all such persons mentioned in RCW 39.08.010 shall have a right of  
18 action in his, her, or their own name or names on such bond for work  
19 done by such laborers or mechanics, and for materials furnished or

1 provisions and goods supplied and furnished in the prosecution of such  
2 work, or the making of such improvements: PROVIDED, That such persons  
3 shall not have any right of action on such bond for any sum whatever,  
4 unless within thirty days from and after the completion of the contract  
5 with an acceptance of the work by the affirmative action of the board,  
6 council, commission, trustees, officer, or body acting for the state,  
7 county or municipality, or other public body, city, town or district,  
8 the laborer, mechanic or subcontractor, or materialman, or person  
9 claiming to have supplied materials, provisions or goods for the  
10 prosecution of such work, or the making of such improvement, shall  
11 present to and file with such board, council, commission, trustees or  
12 body acting for the state, county or municipality, or other public  
13 body, city, town or district, a notice in writing in substance as  
14 follows:

15 To (here insert the name of the state, county or  
16 municipality or other public body, city, town or district):

17 Notice is hereby given that the undersigned (here insert  
18 the name of the laborer, mechanic or subcontractor, or  
19 materialman, or person claiming to have furnished labor,  
20 materials or provisions for or upon such contract or work)  
21 has a claim in the sum of . . . . . dollars (here insert the  
22 amount) against the bond taken from . . . . . (here insert the  
23 name of the principal and surety or sureties upon such  
24 bond) for the work of . . . . . (here insert a brief mention or  
25 description of the work concerning which said bond was  
26 taken).

27 (here to be signed) .....

28 Such notice shall be signed by the person or corporation making the  
29 claim or giving the notice, and said notice, after being presented and  
30 filed, shall be a public record open to inspection by any person, and  
31 in any suit or action brought against such surety or sureties by any  
32 such person or corporation to recover for any of the items hereinbefore  
33 specified, the claimant shall be entitled to recover in addition to all  
34 other costs, attorney's fees in such sum as the court shall adjudge  
35 reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be  
36 allowed in any suit or action brought or instituted before the  
37 expiration of thirty days following the date of filing of the notice

1 hereinbefore mentioned: PROVIDED FURTHER, That any city may avail  
2 itself of the provisions of RCW 39.08.010 through 39.08.030,  
3 notwithstanding any charter provisions in conflict herewith: AND  
4 PROVIDED FURTHER, That any city or town may impose any other or further  
5 conditions and obligations in such bond as may be deemed necessary for  
6 its proper protection in the fulfillment of the terms of the contract  
7 secured thereby, and not in conflict herewith.

8 (2) Under the job order contracting procedure described in RCW  
9 39.10.130, bonds will be in an amount not less than the dollar value of  
10 all open work orders.

11 (3)(a) On highway construction contracts administered by the  
12 department of transportation with an estimated contract price of eighty  
13 million dollars or more, the department shall fix the amount of the  
14 bond to adequately protect one hundred percent of the state's exposure  
15 to loss. The amount of the bond shall not be less than eighty million  
16 dollars.

17 (b) The department shall develop risk assessment guidelines before  
18 implementing (a) of this subsection and gain approval of those  
19 guidelines from the office of financial management. The guidelines  
20 must include a clear process for how the department measures the  
21 state's exposure to loss and how the bond amount, determined under (a)  
22 of this subsection, adequately protects one hundred percent of the  
23 state's exposure to loss.

24 (c) If the office of financial management approves the risk  
25 management guidelines in (b) of this subsection, the secretary of  
26 transportation must approve each bond issued for less than the full  
27 contract price of a project.

28 (d) The department shall report to the house of representatives and  
29 senate transportation committees by December 1, 2008, regarding: The  
30 number of projects where the department authorized bonds for less than  
31 the full contract price; the difference between the project amount and  
32 the bond requirement; the number of bidders on the project; and other  
33 information that documents the effects of the reduced bond amounts on  
34 the project.

35 NEW SECTION. Sec. 2. This act expires June 30, 2011.

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