
ENGROSSED SENATE BILL 5208

State of Washington 60th Legislature 2008 Regular Session

By Senators Swecker, Marr and Haugen

Read first time 01/12/2007. Referred to Committee on Transportation.

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

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

4 **Sec. 1.** RCW 39.08.030 and 2007 c 218 s 89 are each amended to read
5 as follows:

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

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

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

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

26 (here to be signed)

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

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

7 (2) Under the job order contracting procedure described in RCW
8 (~~39.10.130~~) 39.10.420, bonds will be in an amount not less than the
9 dollar value of all open work orders.

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

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