

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2317

Chapter 89, Laws of 2018

65th Legislature
2018 Regular Session

PUBLIC TRANSPORTATION BENEFIT AREAS AND PASSENGER-ONLY FERRY SERVICE
DISTRICTS--CONTRACTOR BONDING

EFFECTIVE DATE: March 15, 2018

Passed by the House February 13, 2018
Yeas 53 Nays 45

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 41 Nays 7

CYRUS HABIB

President of the Senate

Approved March 15, 2018 1:46 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2317** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 16, 2018

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2317

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2018 Regular Session

By House Transportation (originally sponsored by Representatives Appleton, Muri, Fey, Fitzgibbon, Tarleton, Griffey, and Young)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to contractor bonding requirements for public
2 transportation benefit areas and passenger-only ferry service
3 districts; amending RCW 39.08.100; reenacting and amending RCW
4 39.08.030; and declaring an emergency.

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

6 **Sec. 1.** RCW 39.08.030 and 2013 c 113 s 4 and 2013 c 28 s 2 are
7 each reenacted and amended to read as follows:

8 (1)(a) The bond mentioned in RCW 39.08.010 must be in an amount
9 equal to the full contract price agreed to be paid for such work or
10 improvement, except under subsection (2) of this section, and must be
11 to the state of Washington, except as otherwise provided in RCW
12 39.08.100, and except in cases of cities, towns, public
13 transportation benefit areas, passenger-only ferry service districts,
14 and water-sewer districts, in which cases such municipalities may by
15 general ordinance or resolution fix and determine the amount of such
16 bond and to whom such bond runs. However, the same may not be for a
17 less amount than twenty-five percent of the contract price of any
18 such improvement for cities (~~and~~), towns, public transportation
19 benefit areas, and passenger-only ferry service districts, and not
20 less than the full contract price of any such improvement for water-
21 sewer districts, and may designate that the same must be payable to

1 such city, town, ((~~or~~)) water-sewer district, public transportation
2 benefit area, or passenger-only ferry service district, and not to
3 the state of Washington, and all such persons mentioned in RCW
4 39.08.010 have a right of action in his, her, or their own name or
5 names on such bond for work done by such laborers or mechanics, and
6 for materials furnished or provisions and goods supplied and
7 furnished in the prosecution of such work, or the making of such
8 improvements, and the state has a right of action for the collection
9 of taxes, increases, and penalties specified in RCW 39.08.010:
10 PROVIDED, That, except for the state with respect to claims for
11 taxes, increases, and penalties specified in RCW 39.08.010, such
12 persons do not have any right of action on such bond for any sum
13 whatever, unless within thirty days from and after the completion of
14 the contract with an acceptance of the work by the affirmative action
15 of the board, council, commission, trustees, officer, or body acting
16 for the state, county or municipality, or other public body, city,
17 town or district, the laborer, mechanic or subcontractor, or material
18 supplier, or person claiming to have supplied materials, provisions
19 or goods for the prosecution of such work, or the making of such
20 improvement, must present to and file with such board, council,
21 commission, trustees or body acting for the state, county or
22 municipality, or other public body, city, town or district, a notice
23 in writing in substance as follows:

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

26 Notice is hereby given that the undersigned (here
27 insert the name of the laborer, mechanic or
28 subcontractor, or material supplier, or person claiming to
29 have furnished labor, materials or provisions for or upon
30 such contract or work) has a claim in the sum of
31 dollars (here insert the amount) against the bond taken
32 from (here insert the name of the principal and
33 surety or sureties upon such bond) for the work of
34 (here insert a brief mention or description of the work
35 concerning which said bond was taken).

36 (here to be signed)

37 (b) Such notice must be signed by the person or corporation
38 making the claim or giving the notice, and the notice, after being

1 presented and filed, is a public record open to inspection by any
2 person, and in any suit or action brought against such surety or
3 sureties by any such person or corporation to recover for any of the
4 items specified in this section, the claimant is entitled to recover
5 in addition to all other costs, attorneys' fees in such sum as the
6 court adjudges reasonable. However, attorneys' fees are not allowed
7 in any suit or action brought or instituted before the expiration of
8 thirty days following the date of filing of the notice as provided in
9 this section. However, any city may avail itself of the provisions of
10 RCW 39.08.010 through 39.08.030, notwithstanding any charter
11 provisions in conflict with this section. Moreover, any city or town
12 may impose any other or further conditions and obligations in such
13 bond as may be deemed necessary for its proper protection in the
14 fulfillment of the terms of the contract secured thereby, and not in
15 conflict with this section. The thirty-day notice requirement under
16 this subsection does not apply to claims made by the state for taxes,
17 increases, and penalties specified in RCW 39.08.010.

18 (2) Under the job order contracting procedure described in RCW
19 39.10.420, bonds will be in an amount not less than the dollar value
20 of all open work orders.

21 (3) Where retainage is not withheld pursuant to RCW
22 60.28.011(1)(b), upon final acceptance of the public works project,
23 the state, county, municipality, or other public body must within
24 thirty days notify the department of revenue, the employment security
25 department, and the department of labor and industries of the
26 completion of contracts over thirty-five thousand dollars.

27 **Sec. 2.** RCW 39.08.100 and 2005 c 101 s 1 are each amended to
28 read as follows:

29 On contracts for construction, maintenance, or repair of a marine
30 vessel, the department of transportation, a public transportation
31 benefit area, a passenger-only ferry service district, or any county
32 may permit, subject to specified format and conditions, the
33 substitution of one or more of the following alternate forms of
34 security in lieu of all or part of the bond: Certified check,
35 replacement bond, cashier's check, treasury bills, an irrevocable
36 bank letter of credit, assignment of a savings account, or other
37 liquid assets specifically approved by the secretary of
38 transportation ((~~or~~)), county engineer, or equivalent for a public
39 transportation benefit area or a passenger-only ferry service

1 district, for their respective projects. The secretary of
2 transportation ((~~or~~)), county engineer, or equivalent for a public
3 transportation benefit area or a passenger-only ferry service
4 district, respectively, shall predetermine and include in the special
5 provisions of the bid package the amount of this alternative form of
6 security or bond, or a combination of the two, on a case-by-case
7 basis, in an amount adequate to protect one hundred percent of the
8 state's or county's exposure to loss. Assets used as an alternative
9 form of security shall not be used to secure the bond. By October 1,
10 1989, the department shall develop and adopt rules under chapter
11 34.05 RCW that establish the procedures for determining the state's
12 exposure to loss on contracts for construction, maintenance, or
13 repair of a marine vessel. Prior to awarding any contract limiting
14 security to the county's, public transportation benefit area's, or
15 passenger-only ferry service district's exposure to loss, ((~~a~~
16 ~~county~~)) the governing board of the county or agency shall develop
17 and adopt an ordinance or resolution that establishes the procedure
18 for determining the county's or agency's exposure to loss on
19 contracts for construction, maintenance, or repair of a marine
20 vessel.

21 NEW SECTION. Sec. 3. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of
23 the state government and its existing public institutions, and takes
24 effect immediately.

Passed by the House February 13, 2018.

Passed by the Senate March 2, 2018.

Approved by the Governor March 15, 2018.

Filed in Office of Secretary of State March 16, 2018.

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