

HOUSE BILL REPORT

SSB 6022

As Passed House - Amended:

April 7, 2005

Title: An act relating to surety bonds or insurance for public building or construction contracts.

Brief Description: Changing provisions relating to surety bonds or insurance for public building or construction contracts.

Sponsors: By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senator Prentice).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/31/05 [DPA].

Floor Activity:

Passed House - Amended: 4/7/05, 95-1.

Brief Summary of Substitute Bill (As Amended by House)

- Defines "public construction project" as projects with a common owner and phases, segments or component parts relating to a common geographic site or public transportation system. "Public construction project" does not mean the aggregation of unrelated construction projects.
- Exempts specified public entities from the general prohibition on the use of "wrap-up" insurance when the actual or estimated aggregate value of a public construction project exclusive of insurance and surety costs exceeds \$200 million.
- Excludes surety bonds from "wrap-up" insurance for public construction projects.
- Repeals several related laws.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 8 members: Representatives Kirby, Chair; Ericks, Vice Chair; Tom, Assistant Ranking Minority Member; O'Brien, Santos, Simpson, Strow and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Roach, Ranking Minority Member; Newhouse and Serben.

Staff: Jon Hedegard (786-7127).

Background:

Most public works construction in Washington is performed by private firms. State and local governments contract with private architectural and construction companies for the design and construction of facilities using specific procedures designated in statute. Typically, contractors, subcontractors, consultants, architects, the owner, and others involved in major public construction projects each obtain their own insurance or risk financing to cover their role or risk in the project.

A type of risk pooling known as a "wrap-up" insurance policy is routinely used on large private construction projects. A wrap-up insurance policy generally involves one large, comprehensive policy that covers the owner and all the companies involved in a construction project. This can reduce costs and simplify project management. The wrap-up can include surety bonds.

Public projects have generally been prevented from using wrap-up policies. The Legislature has exempted specified types of projects from the general prohibition on the use of wrap-up policies. In 2003, the law was revised to permit the use of wrap-up insurance policies for the following public construction projects:

the public nonprofit corporation for the state convention and trade center; projects in excess of \$100 million for port districts formed under 53.04 RCW; projects for a regional transit authority authorized under RCW 81.112.030; and public hospital projects in excess of \$100 million for counties with a population over 1 million.

On December 31, 2006, existing RCW 48.30.270 will expire and a new RCW 48.30.270 will become effective. The effect of the change will be to remove the provision exempting certain port projects. A related law, RCW 53.08.145, affecting ports and insurance will also expire on December 31, 2006.

Summary of Amended Bill:

The bill defines "public construction project" as a project that has a public owner and has phases, segments or component parts relating to a common geographic site or public transportation system. "Public construction project" does not include the aggregation of unrelated construction projects.

Public construction project projects are exempt from the general prohibition on the use of "wrap-up" insurance when the actual or estimated aggregate value of a public construction project exclusive of insurance and surety costs, exceeds \$200 million.

Existing enumerated exemptions are removed.

Repeals several related laws including:

- the expiration of the existing law;
- a reenacted section that will be effective December 31, 2006, and that section's effective date section;
- surety bonds are excluded from "wrap-up" insurance policies for public construction projects; and
- a section related to insurance and ports due and that section's uncodified expiration section.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The language is very similar to the House language except that it includes a broad definition of "public owner" instead of a list of exempted entities. It should resolve longstanding conflicts in this area. Local agents are protected but, at the same time, there is provision for wrap-up insurance for very large projects. The agreed upon technical amendment is necessary to prevent unintended expiration. This will allow for safer workplaces while keeping costs down. Availability of wrap-ups is favored but there are very good policy reasons for excluding surety.

Testimony Against: None.

Persons Testifying: Bill Stauffacher, Independent Insurance Agents and Brokers; Jennifer Hills, King County; and Cliff Webster, American Insurance Association.

Persons Signed In To Testify But Not Testifying: None.