

HOUSE BILL REPORT

HB 2317

As Reported by House Committee On: Transportation

Title: An act relating to contractor bonding requirements for public transportation benefit areas and passenger-only ferry service districts.

Brief Description: Concerning contractor bonding requirements for public transportation benefit areas and passenger-only ferry service districts.

Sponsors: Representatives Appleton, Muri, Fey, Fitzgibbon, Tarleton, Griffey and Young.

Brief History:

Committee Activity:

Transportation: 1/15/18, 2/6/18 [DPS].

Brief Summary of Substitute Bill

- Allows public transportation benefit areas (PTBAs) and passenger-only ferry (POF) service districts to determine the amount of the surety bond required on their contracts, so long as the amount is greater than 25 percent of the contract price.
- Allows PTBAs and POF service districts to require alternative forms of security, other than surety bonds, for the construction, maintenance, or repair of a marine vessel.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Chapman, Gregerson, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Tarleton and Valdez.

Minority Report: Do not pass. Signed by 11 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Irwin, Pike, Rodne, Shea, Stambaugh, Van Werven and Young.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: David Munnecke (786-7315).

Background:

A surety bond is a three-way contract in which a bonding company, or surety, agrees to guarantee the public entity that the contractor will perform its obligations under the contract and will make all payments to subcontractors, workers, and suppliers. The bond covers both performance and payment. If the contractor defaults in the performance of the contract or fails to fully pay subcontractors, suppliers, and workers, the surety becomes liable to provide bond funds to complete the contract or pay unpaid subcontractors, suppliers, or workers.

Public works contracts are generally required to have a surety bond equal to the full contract price. Cities and towns, however, may set the amount of a surety bond on a public works contract by ordinance, so long as the amount of the bond is greater than 25 percent of the contract price.

On contracts for the construction, maintenance, or repair of marine vessels, the Washington State Department of Transportation and counties may substitute alternative forms of security in lieu of a surety bond. These alternative forms of securities are defined as:

- certified checks;
- replacement bonds;
- cashier's checks;
- treasury bills;
- irrevocable bank letters of credit;
- assignment of a savings account; or
- other liquid assets approved by the Secretary of Transportation or county.

The Secretary of Transportation or county engineer is required to predetermine and provide, in the bid package, the amount of the alternative security or bond. The bond or alternative security must be in an amount adequate to protect 100 percent of the exposure to loss.

Prior to awarding any contract limiting security for the county's exposure to loss, a county must develop and adopt an ordinance that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

Summary of Substitute Bill:

Public transportation benefit areas (PTBAs) and passenger-only ferry (POF) service districts are allowed to determine the amount of the surety bond required on contracts, so long as the amount is greater than 25 percent of the contract price.

The PTBAs and POF service districts may require alternative forms of security, other than surety bonds, for the construction, maintenance, or repair of a marine vessel. The bond or alternative security must be in an amount adequate to protect 100 percent of the exposure to loss. Prior to awarding any contract limiting security to the PTBA's or POF service district's

exposure to loss, the governing board of a PTBA or POF service district must develop and adopt an ordinance or resolution that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

Substitute Bill Compared to Original Bill:

Various actions are allowed to be taken by governing bodies through resolution, as well as ordinance.

The equivalent to the county engineer at a PTBA or POF service district is allowed to approve other liquid assets to substitute for a surety bond.

An emergency clause is added, so that the bill takes effect immediately.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Current law requires surety bonds equal to 100 percent of the contract amount, and this stifles the bidding and the market for some contracts. This bill would help resolve this issue.

The bill adds PTBA and POF service districts to the current statutes regarding surety bonds for cities and towns.

Kitsap Transit is going to bid for three vessels, and the bidding is limited because of the costs of the surety bonds. Pierce Transit and Community Transit are also interested in the changes made by the bill.

(Opposed) None.

Persons Testifying: Representative Appleton, prime sponsor; and Dylan Doty, Kitsap Transit.

Persons Signed In To Testify But Not Testifying: None.