

SB 5208 - S AMD 100

By Senator Swecker and Haugen

ADOPTED 02/16/2008

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) The bond mentioned in RCW 39.08.010 shall be in an amount equal
6 to the full contract price agreed to be paid for such work or
7 improvement, except under subsections (2) and (3) of this section, and
8 shall be to the state of Washington, except as otherwise provided in
9 RCW 39.08.100, and except in cases of cities and towns, in which cases
10 such municipalities may by general ordinance fix and determine the
11 amount of such bond and to whom such bond shall run: PROVIDED, The
12 same shall not be for a less amount than twenty-five percent of the
13 contract price of any such improvement, and may designate that the same
14 shall be payable to such city, and not to the state of Washington, and
15 all such persons mentioned in RCW 39.08.010 shall have a right of
16 action in his, her, or their own name or names on such bond for work
17 done by such laborers or mechanics, and for materials furnished or
18 provisions and goods supplied and furnished in the prosecution of such
19 work, or the making of such improvements: PROVIDED, That such persons
20 shall not have any right of action on such bond for any sum whatever,
21 unless within thirty days from and after the completion of the contract
22 with an acceptance of the work by the affirmative action of the board,
23 council, commission, trustees, officer, or body acting for the state,
24 county or municipality, or other public body, city, town or district,
25 the laborer, mechanic or subcontractor, or material supplier, or person
26 claiming to have supplied materials, provisions or goods for the
27 prosecution of such work, or the making of such improvement, shall
28 present to and file with such board, council, commission, trustees or
29 body acting for the state, county or municipality, or other public

1 body, city, town or district, a notice in writing in substance as
2 follows:

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

5 Notice is hereby given that the undersigned (here insert
6 the name of the laborer, mechanic or subcontractor, or
7 material supplier, or person claiming to have furnished
8 labor, materials or provisions for or upon such contract or
9 work) has a claim in the sum of dollars (here insert
10 the amount) against the bond taken from (here insert
11 the name of the principal and surety or sureties upon such
12 bond) for the work of (here insert a brief mention or
13 description of the work concerning which said bond was
14 taken).

15 (here to be signed)

16 Such notice shall be signed by the person or corporation making the
17 claim or giving the notice, and said notice, after being presented and
18 filed, shall be a public record open to inspection by any person, and
19 in any suit or action brought against such surety or sureties by any
20 such person or corporation to recover for any of the items hereinbefore
21 specified, the claimant shall be entitled to recover in addition to all
22 other costs, attorney's fees in such sum as the court shall adjudge
23 reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be
24 allowed in any suit or action brought or instituted before the
25 expiration of thirty days following the date of filing of the notice
26 hereinbefore mentioned: PROVIDED FURTHER, That any city may avail
27 itself of the provisions of RCW 39.08.010 through 39.08.030,
28 notwithstanding any charter provisions in conflict herewith: AND
29 PROVIDED FURTHER, That any city or town may impose any other or further
30 conditions and obligations in such bond as may be deemed necessary for
31 its proper protection in the fulfillment of the terms of the contract
32 secured thereby, and not in conflict herewith.

33 (2) Under the job order contracting procedure described in RCW
34 (~~39.10.130~~) 39.10.420, bonds will be in an amount not less than the
35 dollar value of all open work orders.

36 (3) On highway construction contracts administered by the
37 department of transportation with an estimated contract price of eighty

1 million dollars or more, the department shall fix the amount of the
2 bond to adequately protect one hundred percent of the state's exposure
3 to loss. The amount of the bond shall not be less than eighty million
4 dollars."

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5 On page 1, line 2 of the title, after "contracts;" strike the
6 remainder of the title and insert "and amending RCW 39.08.030."

EFFECT: Updates bill due to changes made to RCW 39.08.030 from
2007 legislation.

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