

SENATE BILL REPORT

ESB 5208

As Passed Senate, February 16, 2008

Title: An act relating to bond amounts for department of transportation highway contracts.

Brief Description: Regarding bond amounts for certain department of transportation highway construction contracts.

Sponsors: Senators Swecker, Marr and Haugen.

Brief History:

Committee Activity: Transportation: 2/08/07, 2/12/07 [DP].

Passed Senate: 3/12/07, 49-0; 2/16/08, 49-0.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Murray, Vice Chair; Swecker, Ranking Minority Member; Benton, Berkey, Clements, Delvin, Eide, Holmquist, Jacobsen, Kastama, Kilmer, Pflug and Spanel.

Staff: Hayley Gamble (786-7452)

Background: A performance bond is a bond, usually issued by an insurance company, to guarantee satisfactory completion of a project by a contractor. If a contractor does not complete a project as specified in his or her contract, the issuer of the performance bond becomes liable for completing the project or for financial compensation.

The Washington State Department of Transportation (WSDOT) currently requires all contractors to secure a performance bond for an amount equal to 100 percent of the contract value on a project.

Large highway construction projects are often constructed in stages, in which case Washington State's level of risk at any one time is not as high as the total project contract. Performance bonds for large highway construction projects, generally over \$250 million, are becoming difficult to obtain and increasingly expensive.

Summary of Engrossed Bill: On highway construction projects administered by WSDOT, with an estimated contract price of \$80 million or more, WSDOT may set the amount of a performance bond at less than the contract price, as long as the state's exposure to loss is still covered 100 percent by the bond. However, the amount of the performance bond shall not be less than \$80 million.

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.

Appropriation: None.

Fiscal Note: Requested on January 26, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: WSDOT has been reviewing alternative contracting strategies to achieve efficiencies and changing surety bond requirements came up in discussions with construction companies. If these changes are not made the state may get less bidders on projects. The surety bond market has changed in the last five years, we can no longer expect contractors to cover 100 percent of the contract cost on large projects. Other states are using the approach proposed in this bill.

Persons Testifying: PRO: Craig McDaniel, WSDOT.