

# SENATE BILL REPORT

## SB 6022

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As Reported by Senate Committee On:  
Transportation, January 23, 2018

**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:** Senators Rolfes, Angel and Hobbs.

**Brief History:**

**Committee Activity:** Transportation: 1/17/18, 1/23/18 [DPS].

**Brief Summary of First 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.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 6022 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Chase, Cleveland, Dhingra, Fortunato, Lias, McCoy, O'Ban, Sheldon, Takko, Wellman and Zeiger.

**Staff:** Hayley Gamble (786-7452)

**Background:** Performance Bonds. A state or local entity awarding a public works contract must require the contractor to execute a surety bond. 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,

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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. Typically the bond must be equal to the full contract price, however cities, towns, and sewer districts may set the amount of the bond for not less 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 in statute. The bond or alternative security must be in an amount adequate to protect 100 percent of the 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.

Public Transportation Benefit Areas. PTBAs are the most common governance structure for transit agencies in Washington. They may be smaller or larger than a county, or include multiple counties. PTBAs are governed by a board of up to nine directors, selected from elected officials currently serving the local city and/or county. Most PTBAs have the authority to impose a voter-authorized sales tax of up to 0.9 percent within their boundaries to fund public transportation.

Passenger-Only Ferry Service Districts. The 2015 transportation revenue bill (2ESSB 5987) authorized certain PTBAs meeting geographic and population requirements to establish POF service districts, which could impose a number of voter-approved revenue options. The governing body of such a PTBA would serve as the governing body of the POF service district. Currently, Kitsap Transit has created the only POF service district, using a voter-approved 0.03 percent sales and use tax to fund POF service.

**Summary of Bill (First Substitute):** PTBAs and POF service districts may 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 resolution that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

**EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (First Substitute):**

- Adds 'resolution' to correctly identify the process by which a PTBA or POF would determine certain processes.
- Adds an emergency clause.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill will help increase competition and bidding on the new proposed passenger ferry that Kitsap Transit would like to purchase. This statute was amended in 2013 to include sewer districts. Kitsap Transit has implemented a fast ferry service and now we are in the process of procuring additional boats. This bill will help make new boat manufacturer bids more competitive. We do not expect to have 100 percent project exposure at any one time in the project. There is a minor technical amendment needed as transit agencies do not pass ordinances they pass resolutions. We would also like to see an emergency clause added also.

**Persons Testifying:** PRO: Senator Christine Rolfes, Prime Sponsor; Dylan Doty, Kitsap Transit; John Clauson, Executive Director, Kitsap Transit.

**Persons Signed In To Testify But Not Testifying:** No one.