FINAL BILL REPORT
SSB 5499

PARTIAL VETO
C 473 L 09
Synopsis as Enacted

Brief Description: Concerning bond amounts for department of transportation highway contracts.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Jarrett, Swecker, Haugen, Marr and Shin; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: Current law requires that public works contracts have a surety bond equal to the full contract price. 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, laborers, 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.

Based on recent activity in the surety market and on industry information, sureties do not generally sell bonds in which the value of the bond exceeds $500 million. On contracts that exceed the $500 million level, contractors may generally obtain bonds at less than the full contract price and only in states where the law allows them to do so.

In a number of states, separate bonds are required for performance and for payment. The Department of Transportation (DOT) indicates that the maximum risk at any given time on a highway construction project to which the state is exposed is about 30 percent of the contract amount.

Summary: DOT is authorized to allow contractors to provide surety bonds at less than 100 percent of the price of contracts exceeding $250 million. If surety bonds at less than the full contract price are authorized, the contractor must provide both a performance bond and a payment bond. DOT must set the amount of the performance bond to adequately cover 100 percent of the state's exposure to loss but no less than $250 million. The payment bond must be set at no less than the performance bond amount.

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.

DOT must develop risk assessment guidelines for the purposes of assessing the state's exposure to loss on highway construction contracts. The Office of Financial Management (OFM) must approve the guidelines before DOT may authorize contractors to provide surety bonds at less than the full price of a contract.

DOT must report to the Legislature by December 2012 on any activity on contracts of $250 million or more in which surety bonds at less than 100 percent of contract price were provided.

This authority expires at the end of fiscal year 2016.

Votes on Final Passage:

Senate	48	0	
House	92	2	(House amended)
Senate	38	9	(Senate concurred)

Effective: July 26, 2009

Partial Veto Summary: The Governor vetoed the section that required the Governor in consultation with OFM and the Secretary of DOT to approve contracts where surety bonds at less than the full contract price were considered.