

HOUSE BILL REPORT

HB 1384

As Reported by House Committee On: Transportation

Title: An act relating to public improvement contracts involving certain federally funded transportation projects.

Brief Description: Concerning public improvement contracts involving certain federally funded transportation projects.

Sponsors: Representatives Moscoso, Liias, Clibborn, Billig, Ryu, Kenney, Stanford and Reykdal; by request of Department of Transportation.

Brief History:

Committee Activity:

Transportation: 2/3/11, 2/22/11 [DPS].

Brief Summary of Substitute Bill

- Exempts public highway, road, and street contracts funded by federal transportation funds from the "contract retainage" requirement.
- States that the contract bond must remain in full force until, at a minimum, all claims filed in compliance with contractor's bond requirements are resolved.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Clibborn, Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Asay, Eddy, Finn, Fitzgibbon, Jinkins, Johnson, Klippert, Kristiansen, Ladenburg, Moeller, Morris, Moscoso, Overstreet, Reykdal, Rivers, Rodne, Rolfes, Ryu, Shea, Takko, Upthegrove and Zeiger.

Staff: Christie Parker (786-7322).

Background:

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.

Current state law requires that public improvement contract provisions include a "contract retainage" of no more than 5 percent of the moneys earned by the contractor. The retainage is to be set aside as a trust fund in the event that claims arise under the contract or taxes are not paid by the contractor. This provision applies to the state, as well as to counties, cities, towns, districts, boards, and other public bodies. State law also permits prime contractors to hold a contract retainage of no more than 5 percent of moneys earned by subcontractors or suppliers.

State law requires that all retainage be paid to the contractor within 60 days of completion of all contract work other than landscaping.

Federal disadvantaged business enterprise (DBE) regulations require prime contractors to pay subcontractors in full by no later than 30 days after the subcontractor's work is satisfactorily completed. This is referred to as the DBE "prompt payment requirement."

Summary of Substitute Bill:

Public improvement contracts for highway, road, and street projects that are funded by federal transportation funds are exempted from the retainage requirement. Instead, the contract bond is used in the event of claims or unpaid taxes. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with contractor's bond requirements are resolved.

Substitute Bill Compared to Original Bill:

The substitute bill adds the requirement that the contract bond must remain in force until all claims filed in compliance with contractor's bond requirements are resolved; it also adds an intent section.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The state needs this bill to comply with the prompt payment provision in federal law. Removing retainage allows contractors to pay subcontractors more quickly. Liability is reassigned from the retainage to the performance bonds.

(In support with amendment) We are in support of this bill and would like it to be broadened to include marine and transit providers because one agency was recently cited in a triennial review.

(Opposed) None.

Persons Testifying: (In support) Representative Moscoso, prime sponsor; and Craig McDaniel, Washington State Department of Transportation.

(In support with amendment) Genesee Adkins, King County.

Persons Signed In To Testify But Not Testifying: None.