

# SENATE BILL REPORT

## SHB 1384

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As Reported by Senate Committee On:  
Transportation, March 28, 2011

**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:** House Committee on Transportation (originally sponsored by Representatives Moscoso, Lias, Clibborn, Billig, Ryu, Kenney, Stanford and Reykdal; by request of Department of Transportation).

**Brief History:** Passed House: 3/05/11, 98-0.

**Committee Activity:** Transportation: 3/16/11, 3/28/11 [DP].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass.

Signed by Senators Haugen, Chair; White, Vice Chair; King, Ranking Minority Member; Fain, Assistant Ranking Minority Member; Delvin, Eide, Ericksen, Hill, Hobbs, Litzow, Prentice, Sheldon, Shin and Swecker.

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

**Background:** Current state law requires that public improvement contract provisions include a contract retainage of no more than 5 percent of the monies 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 monies 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.

Entities receiving federal transportation funds must comply with federal disadvantaged business enterprise (DBE) regulations, which require prime contractors to pay subcontractors

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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.

A contractor bond is a bond required to be provided by a contractor that guarantees the performance of the terms and conditions of a written contract, the work the contractor has agreed to perform.

**Summary of Bill:** Public improvement contracts for highway, road, and street projects that are funded by federal transportation funds are exempt 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.

**Appropriation:** None.

**Fiscal Note:** Available.

**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: This bill is necessary to comply with federal requirements and will allow for prompt payments. State funded projects would not be effected by this bill. Current law leaves contracting entities in compliance with state law and out of compliance with federal law. An amendment to include transit agencies would allow transit agencies to be in compliance and avoid considerable paperwork.

**Persons Testifying:** PRO: Representative Moscoso, prime sponsor; Craig McDaniel, WSDOT; Bill Greene, King County; Melanie Smith, Sound Transit; Doug Levy, Everett Transit.