

# SENATE BILL REPORT

## HB 2240

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As of February 23, 2012

**Title:** An act relating to public improvement contracts involving federally funded transit facility projects.

**Brief Description:** Concerning public improvement contracts involving federally funded transit facility projects.

**Sponsors:** Representatives Moscoso, Fitzgibbon and Miloscia.

**Brief History:** Passed House: 2/13/12, 98-0.

**Committee Activity:** Transportation: 2/22/12.

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### SENATE COMMITTEE ON TRANSPORTATION

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

**Background:** 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.

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.

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 the contractor's bond requirements are resolved.

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*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.*

**Summary of Bill:** Public improvement contracts for transit facilities that are funded in whole or in part by federal transportation funds are added to the types of contracts exempted from the contract retainage requirement.

**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 resolves the conflict between state and federal law for transit agencies.

**Persons Testifying:** PRO: Representative Moscoso, prime sponsor; Loren Armstrong, Sound Transit; Genesee Adkins, King County.