

# SENATE BILL REPORT

## SB 5663

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As of February 16, 2011

**Title:** An act relating to concurrent jurisdiction of state and federal courts over certain actions under chapters 39.08 and 60.28 RCW, including actions involving delinquent contributions to benefit plans

**Brief Description:** Regarding concurrent jurisdiction of state and federal courts over actions brought against sureties and actions to foreclose liens, including actions involving claims for delinquent contributions to benefit plans.

**Sponsors:** Senators Harper, Roach, Conway and Kline.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/17/11.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Mac Nicholson (786-7445)

**Background:** A contractor working on a public works project must obtain a performance and payment bond with a surety company and file it with the public agency contracting for the project. The performance and payment bond is to be conditioned that the contractor must faithfully perform all the provisions of such contract and pay all laborers, mechanics, subcontractors, material suppliers, and all persons who supply such persons, or subcontractors, with provisions and supplies for the carrying on of the work. Anyone who has a claim against the bond must file a claim within 30 days from and after the completion of the contract with an acceptance of the work by the affirmative action of the public owner.

State law also requires public agencies to withhold 5 percent of money due the contractor for a public improvement or work until completion and/or acceptance of the contract. This is known as retainage, and retainage money is to be set aside as a trust fund for the protection and payment of anyone who performs labor; provides materials, supplies, or equipment; or subcontracts to the prime contractor. Anyone who performs labor; provides materials, supplies, or equipment; or subcontracts to the prime contractor must file a notice of lien against retainage within 45 days of the completion of all contract work. After completion of all contract work, the contractor may request that the public agency release the retainage. The agency is to release these funds within 60 days of this request.

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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:** State and federal courts have concurrent jurisdiction over any suit or action brought against the surety or sureties of the performance and payment bond to recover for work done or materials furnished, including any suit or action involving a claim for delinquent contributions to a benefit plan.

State and federal courts have concurrent jurisdiction over an action to foreclose a lien on retainage, including an action involving a claim for delinquent contributions to a benefit plan.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.