
Local Government Committee

HB 1241

Brief Description: Concerning contractor's bond.

Sponsors: Representatives Takko, Kochmar, Fitzgibbon, Crouse and Upthegrove.

Brief Summary of Bill

- Authorizes water-sewer districts, in addition to cities and towns, to fix and determine the amount of a public works contractor's surety bond and to whom the bond shall run.
- Makes several technical changes, such as removing outdated language and fixing a reference to recodified law.

Hearing Date: 1/29/13

Staff: Michaela Murdock (786-7289).

Background:

Surety Bond Requirement for Public Works Contracts.

A surety bond is a three-way contract in which a bonding company, or surety, agrees to guarantee a public entity that a contractor will perform its obligations under a contract and will make all payments to laborers, mechanics, subcontractors, and material suppliers. The bond covers both performance and payment. If the contractor defaults in the performance of the contract or fails to fully pay laborers, mechanics, subcontractors, or material suppliers, the surety becomes liable to provide bond funds to complete performance of the contract and/or pay outstanding debts.

Under the law, all contractors awarded a public works contract must execute a surety bond conditioned upon faithful performance of the contract and payment to all laborers, mechanics, subcontractors, and material suppliers, it must be equal to the full contract price, and it must run to the State of Washington. In the cases of cities and towns, however, the amount of the surety bond and to whom it shall run may be fixed and determined by general ordinance. Cities and

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towns are authorized to fix the amount of a surety bond at not less than 25 percent of the contract price and may designate that it shall be payable to the city and not to the State of Washington.

Department of Transportation Authority to Set Bond Amounts.

In 2009 the Legislature amended the law to authorize the Department of Transportation (DOT), on highway construction contracts with an estimated contract price of \$250 million or more, to allow contractors to provide performance and payment bonds at less than 100 percent of the contract price. The amount of the performance bond may not be less than \$250 million, and the payment bond may not be in an amount less than the amount of the performance bond fixed by the DOT.

The DOT was required to report to the Legislature by December 1, 2012, on details for each project for which bonds less than the full contract price were authorized by the DOT, and information relating to the effects of reduced bond amounts on a given project. The authority granted to the DOT in 2009 to allow performance and payment bonds for less than 100 percent of the full contract price is only effective until June 30, 2016, at which time it expires.

Summary of Bill:

In addition to cities and towns, water sewer districts may, by general ordinance, fix and determine the amount of a public works contractor's surety bond and to whom it shall run. While cities and towns may fix the amount of a surety bond for not less than 25 percent of the contract price, water-sewer districts may not fix the amount of a surety bond for less than 100 percent of the contract price of an improvement. Same as cities and towns, water-sewer districts may designate that a surety bond shall be payable to the district and not to the State of Washington. Unlike the authorization granted to the DOT to set bond amounts, which expires on June 30, 2016, the authorization granted to water-sewer districts under this section does not expire.

Several technical changes are made, including changing "attorney's fees" to "attorneys' fees," fixing reference to recodified law, and deleting an outdated provision requiring the DOT to report to the Legislature by December 1, 2012.

Appropriation: None.

Fiscal Note: Available.

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