

HOUSE BILL REPORT

SB 5186

As Passed House:
April 9, 2013

Title: An act relating to contractor's bond.

Brief Description: Concerning contractor's bond.

Sponsors: Senators Roach, Conway, Benton, Chase and Shin.

Brief History:

Committee Activity:

Local Government: 3/14/13, 3/19/13 [DP].

Floor Activity:

Passed House: 4/9/13, 89-5.

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- Makes several technical changes, such as removing outdated language and fixing a reference to recodified law.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Kochmar, Assistant Ranking Minority Member; Buys, Liias, Springer and Upthegrove.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor, Ranking Minority Member.

Staff: Michaela Murdock (786-7289).

Background:

Surety Bond Requirement for Public Works Contracts.

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.

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. For cities and towns, however, the amount of a surety bond and to whom it shall run may be fixed and determined by general ordinance. Cities and 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.

The Department of Transportation's Authority to Set Bond Amounts.

In 2009 the Legislature amended the law to authorize the Department of Transportation (DOT), for 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. This statutory authority is effective only until June 30, 2016, at which time it expires. The DOT was required by statute to report to the Legislature by December 1, 2012, regarding projects for which it authorized bonds less than the full contract price.

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. Like 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 does not expire.

Several technical changes are made, including changing "attorney's fees" to "attorneys' fees," fixing a 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: Not requested.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2 relating to performance bonds, which takes effect June 30, 2016.

Staff Summary of Public Testimony:

(In support) This bill will help water-sewer districts run more efficiently, and will give them the same authority that counties and cities have to determine to whom a contractor's bond will be payable. It will also reduce costs.

(Opposed) None.

Persons Testifying: Senator Roach, prime sponsor; and Joe Daniels, Washington State Association of Sewer and Water Districts.

Persons Signed In To Testify But Not Testifying: None.