

SENATE BILL REPORT

SHB 1575

As Reported by Senate Committee On:
Financial Institutions & Insurance, March 25, 2015

Title: An act relating to retainage bonds on public contracts.

Brief Description: Regulating retainage bonds on public contracts.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Buys, Dunshee, DeBolt and Stanford).

Brief History: Passed House: 3/05/15, 98-0.

Committee Activity: Financial Institutions & Insurance: 3/25/15 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators Benton, Chair; Angel, Vice Chair; Mullet, Ranking Minority Member; Darneille, Hobbs, Litzow, Pedersen and Roach.

Staff: Shani Bauer (786-7468)

Background: Public improvement contracts must provide for the withholding of a contract retainage up to 5 percent of the total contract amount. The retainage is to ensure completion of the contractor's duties under the contract, including payment of any subcontractors and suppliers. The retainage is released once the contractor has completed all of the obligations under the contract.

As an alternative to the contract retainage, a contractor may submit a surety bond for all or any portion of the retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The Office of the Insurance Commissioner is responsible for overseeing the regulation of surety insurance.

A.M. Best is a U.S.-based rating agency that focuses on the insurance industry. A.M. Best issues financial strength ratings measuring insurance companies' ability to pay claims. It also rates financial instruments issued by insurance companies, such as bonds, notes, and securitization products. Typical ratings are A++ or A+ for Superior, A or A- for Excellent, and B or B- for Good.

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: A contractor may submit a surety bond in lieu of the contract retainage on a public improvement contract in a form acceptable to the public body and issued by an authorized surety insurer. The public body may not require the authorized surety to have a minimum A.M. Best financial strength rating greater than A-.

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: The current financial strength rating is set by individual entities. An issue arose when the Port of Bellingham required an A+ rating for a retainage bond, thereby eliminating 75 percent of the companies that issue surety bonds. Most insurers have an A- bond rating. Allowing a floor of A- is a good middle ground. Insurance companies took issue with the public body's ability to set any floor at all if the insurance company is regulated by the Office of the Insurance Commissioner and in good standing. Retainage bonds are very important to small and medium-sized construction companies so they can keep the cash flowing in order to pay suppliers and employees.

Persons Testifying: PRO: Representative Buys, prime sponsor; Gary Strannigan, Liberty Mutual, Safeco; Clifford Webster, WA Construction Industry Council.

Persons Signed in to Testify But Not Testifying: No one.