

SENATE BILL REPORT

SHB 2317

As of February 19, 2018

Title: An act relating to contractor bonding requirements for public transportation benefit areas and passenger-only ferry service districts.

Brief Description: Concerning contractor bonding requirements for public transportation benefit areas and passenger-only ferry service districts.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Appleton, Muri, Fey, Fitzgibbon, Tarleton, Griffey and Young).

Brief History: Passed House: 2/13/18, 53-45.

Committee Activity: Transportation: 2/19/18.

Brief Summary of Bill

- Allows public transportation benefit areas (PTBAs) and passenger-only ferry (POF) service districts to determine the amount of the surety bond required on their contracts, so long as the amount is greater than 25 percent of the contract price.
- Allows PTBAs and POF service districts to require alternative forms of security, other than surety bonds, for the construction, maintenance, or repair of a marine vessel.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Hayley Gamble (786-7452)

Background: Performance Bonds. A state or local entity awarding a public works contract must require the contractor to execute a surety bond. A surety bond is a three-way contract in which a bonding company, or surety, agrees to guarantee the public entity that the contractor will perform its obligations under the contract and will make all payments to subcontractors, workers, and suppliers. The bond covers both performance and payment. If the contractor defaults in the performance of the contract or fails to fully pay subcontractors, suppliers, and workers, the surety becomes liable to provide bond funds to complete the contract or pay unpaid subcontractors, suppliers, or workers. Typically, the bond must be equal to the full

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contract price; however, cities, towns, and sewer districts may set the amount of the bond for not less than 25 percent of the contract price.

On contracts for the construction, maintenance, or repair of marine vessels, the Washington State Department of Transportation and counties may substitute alternative forms of security in lieu of a surety bond. These alternative forms of securities are defined in statute. The bond or alternative security must be in an amount adequate to protect 100 percent of the exposure to loss. A county must develop and adopt an ordinance that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

PTBAs. PTBAs are the most common governance structure for transit agencies in Washington. They may be smaller or larger than a county, or include multiple counties. PTBAs are governed by a board of up to nine directors, selected from elected officials currently serving the local city and/or county. Most PTBAs have the authority to impose a voter-authorized sales tax of up to 0.9 percent within their boundaries to fund public transportation.

POF Service Districts. The 2015 transportation revenue bill (2ESSB 5987) authorized certain PTBAs meeting geographic and population requirements to establish POF service districts, which could impose a number of voter-approved revenue options. The governing body of such a PTBA would serve as the governing body of the POF service district. Currently, Kitsap Transit has created the only POF service district, using a voter-approved 0.03 percent sales and use tax to fund POF service.

Summary of Bill: PTBAs and POF service districts may determine the amount of the surety bond required on contracts, so long as the amount is greater than 25 percent of the contract price.

The PTBAs and POF service districts may require alternative forms of security, other than surety bonds, for the construction, maintenance, or repair of a marine vessel. The bond or alternative security must be in an amount adequate to protect 100 percent of the exposure to loss. Prior to awarding any contract limiting security to the PTBA's or POF service district's exposure to loss, the governing board of a PTBA or POF service district must develop and adopt a resolution that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: This bill adds transits and POFs to the same statutes that cover cities and towns. It removes a burden on contractors and will create a more competitive bidding environment.

Persons Testifying: PRO: Dylan Doty, Kitsap Transit.

Persons Signed In To Testify But Not Testifying: No one.