

NEW SECTION. Sec. 28. This 1974 amendatory act shall be submitted to the people for their adoption and ratification, or rejection, at a special election hereby ordered by the legislature, which election shall be held in conjunction with the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1974, all in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof.

Passed the House April 15, 1974.
Passed the Senate April 23, 1974.
Filed in Office of Secretary of State April 26, 1974.

CHAPTER 153
[Substitute House Bill NO. 541]
INJUNCTIONS—
PUBLIC WORKS CONTRACTS

AN ACT Relating to injunctions or restraining orders affecting construction contracts; and adding a new section to chapter 7.40 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 7.40 RCW a new section to read as follows:

In determining the amount of the bond required by RCW 7.40.080 as now or hereafter amended, with respect to an injunction or restraining order that will delay or enjoin a notice to proceed or the performance of work under a construction contract for a public contracting body among the factors regarded in the exercise of its discretion, the court shall consider:

(1) All costs and liquidated damages provided for in the contract or otherwise that may result from such delay;

(2) The probable costs to the public in terms of inconvenience, delayed use of the proposed facilities, and escalation of costs of delayed construction of the proposed facilities that may be incurred as a result of a delay subsequently found to be without good cause; and

(3) The procedures for consideration of objections to proposed construction and the opportunity the one seeking the injunction had for objecting prior to the letting of the contract.

Passed the House January 23, 1974.
Passed the Senate February 7, 1974.
Vetoed by the Governor February 15, 1974.
Veto overridden by House April 19, 1974.
Veto overridden by Senate April 23, 1974.
Filed in Office of Secretary of State April 26, 1974.
Note: Governor's explanation of veto is as follows:

"I am returning herewith without my approval Substitute House Bill No. 541 entitled:

"AN ACT Relating to injunctions or restraining orders affecting construction contracts."

This bill provides additional criteria which must be considered by a court in determining the amount of a bond required under RCW 7.40.080 relating to injunction bonds. Presumably the purpose of these additional criteria is to discourage frivolous applications for injunctions against public construction projects.

Under existing law as set forth in RCW Chapter 7.40, safeguards are already provided to protect an adverse party affected by a temporary restraining order or an injunction, including the requirement of an injunction bond. RCW 7.40.080 already requires a bond which would cover "all damages and costs which may accrue by reason of the injunction or restraining order." I believe this language of the present statute allows sufficient protection for an adverse party, and the provisions of subsections (1) and (3) in section 1 of the bill add nothing to the statutory authority or discretion of a court in considering the amount of an injunction bond.

Moreover, the damages contemplated by subsection (2) of section 1 of the bill are entirely speculative. A court would have no authoritative basis on which to arrive at a proper amount for an injunction bond under this subsection.

For these reasons, I have determined to veto Substitute House Bill No. 541 in its entirety."

Note: Chief Clerk of the House's letter informing the Secretary of State that the Legislature has overridden the Governor's veto is as follows:

The Honorable A. Ludlow Kramer
Secretary of State
State of Washington

Dear Mr. Secretary:

I am returning herewith Substitute House Bill No. 541 entitled:

"Providing for injunctions affecting construction contracts"

This bill was vetoed by Governor Daniel J. Evans on February 15, 1974. The veto was overridden by the House of Representatives on April 19, 1974 and by the Senate on April 23, 1974.

Respectfully submitted,

DEAN R. FOSTER
Chief Clerk