

SENATE BILL REPORT

SB 6577

As Passed Senate, February 18, 2002

Title: An act relating to identification of subcontractors on public works contracts.

Brief Description: Prohibiting substitution of subcontractors on larger public works contracts.

Sponsors: Senators Gardner, Roach and Costa.

Brief History:

Committee Activity: State & Local Government: 2/6/02, 2/7/02 [DP].

Passed Senate: 2/18/02, 41-8.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Gardner, Chair; Fairley, Vice Chair; Hale, Haugen, Horn, Keiser, Kline, McCaslin, Roach, T. Sheldon and Swecker.

Staff: Mac Nicholson (786-7445)

Background: Bid shopping refers to a general or prime contractor's supposed attempt to reduce its own costs, after being awarded a contract, by finding a subcontractor that will submit a lower bid than that used in calculating the total contract price. Some believe bid shopping in public works projects gives the general contractor a windfall profit at the expense of taxpayers, as the savings generated by bid shopping are not passed on to the governmental unit contracting out the work.

Summary of Bill: A prime contract bidder must submit, as part of every bid for a public works project that is expected to cost \$1 million or more, who will subcontract for performance of HVAC (heating, ventilation and air conditioning), plumbing, and electrical work. The prime contract bidder cannot list more than one subcontractor for each category of work identified. Substitution of a listed subcontractor in furtherance of bid shopping before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover damages from the prime bidder and the substituted subcontractor, but not from the public entity inviting the bid. Failure to include the names of such subcontractors, or to name itself to perform such work, or naming two or more subcontractors to perform the same work, renders the prime contract bidder's bid nonresponsive and therefore void.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation allows a subcontractor who has been the victim of bid shopping to recover damages against the prime contractor and the substituted subcontractor.

Testimony Against: While the legislation uses the term bid shopping, no definition is provided. There are legitimate reasons for a prime contractor to replace a subcontractor after a public works project has been awarded.

Testified: PRO: Lorne McCandlish, McCandlish Electric; Michael Fornay, McCandlish Electric; Larry Stevens, NECA and MCA; Dan Sexton, WA St. Assoc. of Plumbers and Pipefitters; Mel Buttrum, Service Electric. CON: Rick Slunaker, AGC.

House Amendment(s): The burden of proving that bid shopping occurred is on the original subcontractor, and is by a preponderance of the evidence. Conditions under which substitution of a listed subcontractor may be made by the prime contractor are listed.