

ESHB 1569 - S COMM AMD

By Committee on Government Operations & Elections

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW
4 to read as follows:

5 (1) When the state or a municipality, as part of the bidding
6 process for the execution of public work, requires a bidder, offeror,
7 or contractor to submit bid documentation prior to execution of a
8 contract, the bid documentation shall be placed in escrow with a
9 banking institution. The bid documentation shall remain at all times
10 the property of the bidder, offeror, or contractor submitting the bid
11 documentation. The state or municipality shall have no interest in or
12 right to the bid documentation unless litigation arises between the
13 state or municipality and the successful bidder, offeror, or contractor
14 with whom the state or municipality executes a contract. In the event
15 of litigation, the state or municipality may file a motion requesting
16 the court to enter an order directing the banking institution to
17 deliver the bid documentation in escrow to the state or municipality.
18 Under no circumstances shall the state or municipality utilize or have
19 access to bid documentation during the process of awarding and
20 executing a contract for public work. The bid documentation shall
21 remain in escrow during the life of the contract and shall be returned
22 to the bidder, offeror, or contractor performing the public work upon
23 completion of the contract provided no claims relating to the contract
24 remain.

25 (2) "Bid documentation" means any writing, working papers, notes,
26 computer printouts, charts, and any other data compilation which
27 contain or reflect all information, data, and calculations used by a
28 bidder, offeror, or contractor to determine a bid submitted for public
29 work. This includes, but is not limited to, equipment rates, overhead
30 rates, labor rates, efficiency or productivity factors, arithmetic

1 extensions, and quotations from subcontractors, and materialmen to the
2 extent that such rates and quotations were used by the bidder in
3 formulating and determining the amount of the bid. "Bid documentation"
4 also includes any manuals which are standard to the industry performing
5 the public work in determining the amount of a bid. These manuals may
6 be included in the bid documentation by reference. "Bid documentation"
7 also includes any affidavit or other document that lists the bid
8 documentation provided to the banking institution. "Bid documentation"
9 does not include documents provided by the state or municipality for
10 use by a bidder, offeror, or contractor in preparing a bid for a public
11 works. "Bid documentation" does not include any document required to
12 be submitted as a part of a bid that is considered by the state or
13 municipality during the process of awarding and executing a contract
14 for public work."

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15 On page 1, line 2 of the title, after "bid;" strike the remainder
16 of the title and insert "and adding a new section to chapter 39.04
17 RCW."

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