

1 **SB 6577 - H COMM AMD Adopted March 6, 2002**

2 By Committee on State Government

3 Strike everything after the enacting clause and insert the
4 following:

5 NEW SECTION. **Sec. 1.** This act is intended to discourage bid
6 shopping and bid peddling on Washington state public building and works
7 projects.

8 **Sec. 2.** RCW 39.30.060 and 1999 c 109 s 1 are each amended to read
9 as follows:

10 (1) Every invitation to bid on a prime contract that is expected
11 to cost one million dollars or more for the construction, alteration,
12 or repair of any public building or public work of the state or a state
13 agency or municipality as defined under RCW 39.04.010 or an institution
14 of higher education as defined under RCW 28B.10.016 shall require each
15 prime contract bidder to submit as part of the bid, or within one hour
16 after the published bid submittal time, the names of the subcontractors
17 with whom the bidder, if awarded the contract, will subcontract for
18 performance of the work of: HVAC (heating, ventilation, and air
19 conditioning((~~τ~~)); plumbing as described in chapter 18.106 RCW((~~τ~~));
20 and electrical as described in chapter 19.28 RCW, or to name itself for
21 the work. The prime contract bidder shall not list more than one
22 subcontractor for each category of work identified, unless
23 subcontractors vary with bid alternates, in which case the prime
24 contract bidder must indicate which subcontractor will be used for
25 which alternate. Failure of the prime contract bidder to submit as
26 part of the bid the names of such subcontractors or to name itself to
27 perform such work or the naming of two or more subcontractors to
28 perform the same work shall render the prime contract bidder's bid
29 nonresponsive and, therefore, void.

30 (2) Substitution of a listed subcontractor in furtherance of bid
31 shopping or bid peddling before or after the award of the prime
32 contract is prohibited and the originally listed subcontractor is
33 entitled to recover monetary damages from the prime contract bidder who
34 executed a contract with the public entity and the substituted

1 subcontractor but not from the public entity inviting the bid. It is
2 the original subcontractor's burden to prove by a preponderance of the
3 evidence that bid shopping or bid peddling occurred. Substitution of
4 a listed subcontractor may be made by the prime contractor for the
5 following reasons:

6 (a) Refusal of the listed subcontractor to sign a contract with
7 the prime contractor;

8 (b) Bankruptcy or insolvency of the listed subcontractor;

9 (c) Inability of the listed subcontractor to perform the
10 requirements of the proposed contract or the project;

11 (d) Inability of the listed subcontractor to obtain the necessary
12 license, bonding, insurance or other statutory requirements to perform
13 the work detailed in the contract; or

14 (e) The listed subcontractor is barred from participating in the
15 project as a result of a court order or summary judgment.

16 (3) The requirement of this section to name the prime contract
17 bidder's proposed ((heating, ventilation and air conditioning))HVAC,
18 plumbing, and electrical subcontractors applies only to proposed
19 ((heating, ventilation and air conditioning))HVAC, plumbing, and
20 electrical subcontractors who will contract directly with the ((general
21 contractor))prime contract bidder submitting the bid to the public
22 entity.-

EFFECT: 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 included.