

# SENATE BILL REPORT

## ESHB 2056

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As Reported By Senate Committee On:  
Government Operations & Elections, April 1, 2003

**Title:** An act relating to the fairness of public works bidding.

**Brief Description:** Modifying public works bidding provisions.

**Sponsors:** House Committee on State Government (originally sponsored by Representatives Haigh, Armstrong and Miloscia).

**Brief History:**

**Committee Activity:** Government Operations & Elections: 4/1/03 [DPA].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Fairley, Kastama, McCaslin and Reardon.

**Staff:** Mac Nicholson (786-7445)

**Background:** Contracts for public works projects are generally awarded using the traditional design-bid-build process, where the public entity hires an architect to design the project, puts construction out for competitive bid, and awards the contract to the lowest responsible bidder.

There are two alternative public works processes authorized for specific governmental bodies, the design/build process and the general contractor/construction manager (GC/CM) process. The design/build process allows a public body to execute a contract with another party in which the party agrees to both design and build the facility. The GC/CM process allows a public body to award a contract to a single party that acts as both the construction manager and the general contractor during construction. Generally, all GC/CM subcontract work must be competitively bid.

**Summary of Amended Bill:** If a municipality receives a written protest from a bidder no later than two business days after the bid opening, the municipality may not execute the public works contract with anyone other than the protesting bidder without first providing at least two full business days' notice of the municipality's intent to execute the contract.

A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project again if a second or subsequent call for bids for the project is made.

If a GC/CM building a public works project receives a written protest from a subcontractor bidder, the GC/CM may not execute a contract for the subcontract bid package with anyone other than the protesting bidder without first providing at least two full business days' notice of the GC/CM's intent to execute the contract.

**Amended Bill Compared to Substitute Bill:** The amended bill requires the protesting bidder to submit written notice of the protest to the municipality no later than two business days after the bid opening.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** The bill gives a protesting bidder some time to protest and seek a court order. It prevents a municipality from rushing to execute a contract, thereby preventing a protesting bidder from raising concerns about the bidding process.

**Testimony Against:** None.

**Testified:** PRO: Representative Haigh, prime sponsor; Duke Schaub, AGC; Scott Taylor, WA Public Ports Assn.; Larry Stevens, National Electrical Contractors Assn., Mechanical Contractors Assn.