

HB 1910 -- FAIRNESS IN PUBLIC CONSTRUCTION ACT (Fisher)

COMMITTEE OF ORIGIN: Workforce Development and Workplace Safety

This bill establishes the Fairness in Public Construction Act to fulfill the state's proprietary objectives by maintaining and promoting economical, nondiscriminatory, and efficient expenditures of public funds in connection with publicly funded or assisted construction projects.

Public entities cannot impose certain labor requirements as conditions for performing public works projects if the construction project is more than 50% funded with state moneys. Public entities contracting for public works projects must ensure that their agreements do not bind the other parties to an agreement with a labor organization and cannot discriminate against other parties who refuse to adhere to agreements with labor organizations on the same or related projects. Public entities will not require other parties to enforce any agreement that requires its employees to become a member, pay dues, or pay fees to a labor organization in excess of costs already paid. Any interested party has standing to challenge agreements that violate these provisions.

The bill specifies conditions upon which the state or a political subdivision may enter into a union-only project labor agreement. The intent to enter into a union-only project labor agreement will be published in a document titled "Intent to Enter Into a Project Labor Agreement." A public hearing must be conducted by the state or political subdivision on whether to require a union-only project labor agreement. A finding is appealable to the Labor and Industrial Relations Commission, and any aggrieved party from the commission's decision may appeal to the circuit court of Cole County. If the commission determines that a complaint is frivolous or exhibits a pattern of harassment on the part of the filing party, the commission may disallow the party from filing further complaints for up to one year.

Any employer is prohibited from directly or indirectly receiving from another project any wage subsidies, bid supplements, or rebates from any employee or labor organization for a construction project or from any third party to subsidize labor costs on the public works construction project. This provision, if in conflict with the federal National Labor Relations Act, will not be enforced. Any contractor or subcontractor who violates these provisions will be required to pay the public body twice the amount of the subsidy received.

The bill also specifies that every employer doing business with the State of Missouri is to require each newly hired independent

contractor to fill out a federal W-9 form. The forms will be entered into the state directory of new hires.

An employer is prohibited from treating an employee as an independent contractor to avoid tax liability or reporting requirements. An employer violating this provision will be fined double the amount of tax otherwise due on the employee's taxable wages or, if the employer is acting in bad faith, triple the tax otherwise due on the employee's taxable wages.

Employers are prohibited from discriminating against an employee who communicates his or her intention to seek reclassification as an employee instead of an independent contractor or to file an action alleging a classification violation by the employer.

FISCAL NOTE: No impact on state funds in FY 2007, FY 2008, and FY 2009.