

FIRST REGULAR SESSION

HOUSE BILL NO. 88

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BECK.

0603H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 34.209, 34.212, and 34.218, RSMo, and to enact in lieu thereof three new sections relating to public contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 34.209, 34.212, and 34.218, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 34.209, 34.212, and 34.219, to read as follows:

34.209. ~~[1-]~~ The state, any agency of the state, ~~[any political subdivision of the state,]~~ or any instrumentality thereof, when engaged in procuring or letting contracts for construction~~;~~ ~~repair, remodeling or demolition of a facility]~~ **of a project that is funded greater than fifty percent by state funds** shall ensure that bid specification, project agreements, and other controlling documents entered into, required, or subject to approval by the state, agency, ~~[political subdivision,]~~ or instrumentality do not:

(1) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects; or

(2) Discriminate against~~;~~ ~~encourage, or give preferential treatment to bidders, offerors, contractors, or subcontractors for:~~

~~———— (a) Entering or refusing to enter agreements with one or more labor organizations on the same or related construction projects, or~~

~~———— (b) Remaining or refusing to remain signatory with one or more labor organizations on the same or related construction projects.~~

~~———— 2. Nothing in this section shall be construed to prohibit the state, any agency of the state, any political subdivision of the state, or any instrumentality thereof from requiring bidders,~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 ~~offerors, contractors, or subcontractors, as a condition of receiving work or submitting a bid, to~~
18 ~~test its workers and employees for the presence of illegal drugs]~~ **bidders, offerors, contractors,**
19 **or subcontractors for entering, refusing to enter, or refusing to remain signatory or**
20 **otherwise adherent to agreements with one or more labor organizations on the same or**
21 **related construction projects.**

34.212. 1. The state, any agency of the state, [~~any political subdivision of the state,~~] or
2 any instrumentality thereof shall not issue [~~or award]~~ grants[, ~~tax abatements, or tax credits]~~ or
3 enter into cooperative agreements for construction projects [~~or for the improvement,~~
4 ~~maintenance, or renovation of real property or fixtures,~~] a condition of which requires that bid
5 specifications, project agreements, or other controlling documents pertaining to the grant[, ~~tax~~
6 ~~abatement, tax credit,~~] or cooperative agreement contain any of the elements specified in section
7 34.209.

8 2. The state, any agency of the state, [~~any political subdivision,~~] or any instrumentality
9 thereof shall exercise such authority as may be required to preclude a grant[, ~~tax abatement, or~~
10 ~~tax credit]~~ recipient or party to a cooperative agreement from imposing any of the elements
11 specified in section 34.209 in connection with any grant or cooperative agreement awarded or
12 entered into. Nothing in sections 34.203 to [~~34.217]~~ **34.219** shall prohibit contractors or
13 subcontractors from voluntarily entering into agreements described in section 34.209.

34.219. 1. For purposes of this section, the term "project labor agreement" shall
2 **be defined as a multiemployer, multiunion prehire agreement, designed to systemize labor**
3 **relations at a construction site, that is required by the state or a political subdivision of the**
4 **state as a condition of a bid specification for a construction project, thereby ensuring that**
5 **all contractors and subcontractors on a project comply with the terms of a union-only**
6 **agreement.**

7 2. The state or a political subdivision of the state may enter into a union-only
8 project labor agreement for the procurement of construction services, except as provided
9 under section 34.209, on a project-by-project basis only if the project is funded fifty
10 percent or less with state funds and only on the condition that:

11 (1) The state or political subdivision shall analyze the impact of a union-only
12 project labor agreement and consider:

13 (a) Whether the union-only project labor agreement advances the interests of the
14 public entity and its citizens;

15 (b) Whether the union-only project labor agreement is appropriate considering the
16 complexity, size, cost impact, and need for efficiency on the project;

17 (c) Whether the union-only project labor agreement impacts the availability of a
18 qualified workforce; and

19 (d) Whether the scope of the union-only project labor agreement has a business
20 justification for the project as bid;

21 (2) The state or political subdivision shall publish the findings of subdivision (1) of
22 this subsection in a document titled "Intent to Enter into a Union-Only Project Labor
23 Agreement". The document shall establish a rational basis upon which the state or
24 political subdivision bases its intent to require a union-only project labor agreement for
25 the project;

26 (3) No fewer than fourteen days, but not more than thirty days, following
27 publication of the findings, the state or political subdivision shall conduct a public hearing
28 on whether to proceed with its intent to require a union-only project labor agreement; and

29 (4) Within thirty days of the public hearing set forth under subdivision (3) of this
30 subsection, the state or political subdivision shall publish its determination on whether to
31 require a union-only project labor agreement.

32 3. (1) Any interested party may, within thirty days of the determination of the state
33 or political subdivision as set forth under subdivision (4) of subsection 2 of this section,
34 appeal to the labor and industrial relations commission for a determination as to whether
35 the state or political subdivision complied with subsection 2 of this section for a union-only
36 project labor agreement, as defined under subsection 1 of this section.

37 (2) The labor and industrial relations commission shall consider the appeal under
38 subdivision (1) of this subsection under a rational basis standard of review.

39 (3) The labor and industrial relations commission shall hold a hearing on the
40 appeal within sixty days of the filing of the appeal. The commission shall issue its decision
41 within ninety days of the filing date of the appeal.

42 (4) Any aggrieved party from the labor and industrial relations commission's
43 decision set forth under subdivision (3) of this subsection may file an appeal with the
44 circuit court of Cole County within thirty days of the commission's decision.

2 ~~[34.218. 1. Any entity which violates the provisions of sections 34.203~~
3 ~~to 34.217 shall be liable to the person affected for such equitable relief as may be~~
4 ~~appropriate, including reasonable attorney's fees.~~

5 ~~2. Any entity which violates the provisions of sections 34.203 to 34.217~~
6 ~~shall not be eligible for any state funding or tax credits issued by the state for two~~
7 ~~years.~~

8 ~~3. The prosecuting attorney or circuit attorney with jurisdiction over the~~
9 ~~location where a violation of sections 34.203 to 34.217 occurs, or the attorney~~
10 ~~general of this state, shall investigate complaints of violation of such sections,~~
11 ~~and use all means at their command to ensure the effective enforcement of this~~
12 ~~section.]~~

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