

SECOND REGULAR SESSION

SENATE BILL NO. 889

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Read 1st time January 11, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5197S.02I

AN ACT

To repeal sections 34.209, 34.212, and 34.216, RSMo, and to enact in lieu thereof two 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Section A. Sections 34.209, 34.212, and 34.216, RSMo, are repealed and
2 two new sections enacted in lieu thereof, to be known as sections 34.209 and
3 34.212, to read as follows:

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

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

11 (2) Discriminate against bidders, offerors, contractors, or subcontractors
12 for entering or refusing to enter or to remain signatory or otherwise adhere to
13 agreements with one or more labor organizations on the same or related
14 construction projects; **or**

15 (3) **Encourage or give preferential treatment to bidders, offerors,**
16 **contractors, or subcontractors for entering or refusing to enter or to**
17 **remain signatory or otherwise adhere to agreements with one or more**
18 **labor organizations on the same or related construction projects.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

9 2. The state, any agency of the state, **any political subdivision**, or any
10 instrumentality thereof shall exercise such authority as may be required to
11 preclude a grant, **tax abatement, or tax credit** recipient or party to a
12 cooperative agreement from imposing any of the elements specified in section
13 34.209 in connection with any grant or cooperative agreement awarded or entered
14 into. Nothing in sections 34.203 to 34.216 shall prohibit contractors or
15 subcontractors from voluntarily entering into agreements described in section
16 34.209.

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

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

14 (1) The state or political subdivision must analyze the
15 impact of a union-only project labor agreement and consider:

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

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

21 (c) Whether the union-only project labor agreement impacts
22 the availability of a qualified work force; and

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

25 (2) The state or political subdivision shall publish the
26 findings of subdivision (1) of this subsection in a document titled
27 "Intent to Enter Into a Union Project Labor Agreement". The
28 document shall establish a rational basis upon which the state or
29 political subdivision bases its intent to require a union-only project
30 labor agreement for the project;

31 (3) No fewer than fourteen days but not more than thirty
32 days following publication of the notice of a public hearing, the
33 state or political subdivision shall conduct a public hearing on
34 whether to proceed with its intent to require a union-only project
35 labor agreement;

36 (4) Within thirty days of the public hearing set forth in
37 subdivision (3) of this subsection, the state or political subdivision
38 shall publish its determination on whether or not to require a
39 union-only project labor agreement.

40 3. (1) Any interested party may, within thirty days of the
41 determination of the state or political subdivision as set forth in
42 subdivision (4) of subsection 2 of this section, appeal to the labor
43 and industrial relations commission for a determination as to
44 whether the state or political subdivision complied with subsection
45 2 of this section for a union-only project labor agreement as defined
46 in subsection 1 of this section.

47 (2) The labor and industrial relations commission shall
48 consider the appeal in subdivision (1) of this section under a
49 rational basis standard of review.

50 (3) The labor and industrial relations commission shall hold
51 a hearing on the appeal within sixty days of the filing of the
52 appeal. The commission shall issue its decision within ninety days
53 of the filing date of the appeal.

54 (4) Any aggrieved party from the labor and industrial
55 relations commission decision set forth in subdivision (3) of this
56 subsection may file an appeal with the circuit court of Cole County

57 within thirty days of the commission's decision.]

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