

FIRST REGULAR SESSION

[CORRECTED]

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 182

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Offered February 6, 2017.

Senate Substitute adopted, February 8, 2017.

Taken up for Perfection February 8, 2017. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

0676S.02P

AN ACT

To repeal sections 34.209, 34.212, and 34.216, 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Section A. Sections 34.209, 34.212, and 34.216, RSMo, are repealed and
2 three new sections enacted in lieu thereof, to be known as sections 34.209, 34.212,
3 and 34.218, to read as follows:

34.209. 1. 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;]

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

15 **(2) Discriminate against, encourage, or give preferential**
16 **treatment to bidders, offerors, contractors, or subcontractors for:**

17 **(a) Entering or refusing to enter agreements with one or more**
18 **labor organizations on the same or related construction projects; or**

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

21 **2. Nothing in this section shall be construed to prohibit the state,**
22 **any agency of the state, any political subdivision of the state, or any**
23 **instrumentality thereof from requiring bidders, offerors, contractors,**
24 **or subcontractors, as a condition of receiving work or submitting a bid,**
25 **to test its workers and employees for the presence of illegal drugs.**

 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] **34.217** shall prohibit contractors or
15 subcontractors from voluntarily entering into agreements described in section
16 34.209.

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

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

7 3. **The prosecuting attorney or circuit attorney with jurisdiction**
8 **over the location where a violation of sections 34.203 to 34.217 occurs,**
9 **or the attorney general of this state, shall investigate complaints of**

10 **violation of such sections, and use all means at their command to**
11 **ensure the effective enforcement of this section.**

12 [34.216. 1. For purposes of this section, the term "project
13 labor agreement" shall be defined as a multiemployer, multiunion
14 pre-hire agreement designed to systemize labor relations at a
15 construction site that is required by the state or a political
16 subdivision of the state as a condition of a bid specification for a
17 construction project, thereby insuring that all contractors and
18 subcontractors on a project comply with the terms of a union-only
19 agreement.

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

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

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

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

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

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

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

(3) No fewer than fourteen days but not more than thirty
days following publication of the notice of a public hearing, the
state or political subdivision shall conduct a public hearing on
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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