

FIRST REGULAR SESSION

SENATE BILL NO. 185

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS LOUDON, MAYER, NODLER, GRIESHEIMER, CAUTHORN, PURGASON,
RIDGWAY, ENGLER, CLEMENS, BARTLE, KLINDT, VOGEL, SHIELDS, STOUFFER, TAYLOR,
CHAMPION, SCOTT, DOLAN, CROWELL AND GIBBONS.

Read 1st time January 18, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

0778S.011

AN ACT

To amend chapter 34, RSMo, by adding thereto five new sections relating to establishment of the open contracting act.

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

Section A. Chapter 34, RSMo, is amended by adding thereto five new sections, to be known as sections 34.203, 34.206, 34.209, 34.212, and 34.215, to read as follows:

34.203. The provisions of sections 34.203 to 34.215 shall be known and may be cited as the "Open Contracting Act".

34.206. The purpose of sections 34.203 to 34.215 is to fulfill the state's proprietary objectives in maintaining and promoting the economical, nondiscriminatory, and efficient expenditures of state funds in connection with state and state-funded or assisted construction projects.

34.209. Any state or political subdivision, agency, or instrumentality thereof, when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction, or manufacture, shall ensure that bid specification, project agreements, and other controlling documents entered into, required, or subject to approval by the subdivision, agency, 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;

(2) Discriminate against bidders, offerors, contractors, or subcontractors for entering or refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects;

(3) Require or prohibit any bidder, offeror, contractor, or subcontractor to enter into, adhere to, or enforce any agreement that requires its employees as a condition of employment to:

(a) Become members of or become affiliated with a labor organization; or

(b) Pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration, or grievance adjustment.

Nothing in sections 34.203 to 34.215 shall prohibit employers or other parties covered by the National Labor Relations Act from entering into agreements or engaging in any other activity arguable protected by law, nor shall any aspect of sections 34.203 to 34.215 be interpreted in such a way as to interfere with the labor relations of parties covered by the National Labor Relations Act.

34.212. 1. The state, any political subdivision of the state, or any agency or instrumentality thereof shall not issue grants or enter into cooperative agreements for construction projects, a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant or cooperative agreement contain any of the elements specified in section 34.209.

2. The state, any political subdivision of the state, or any agency or instrumentality thereof shall exercise such authority as may be required to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements specified in section 34.209 in connection with any grant or cooperative agreement awarded or entered into. Nothing in sections 34.203 to 34.215 shall prohibit contractors or subcontractors from voluntarily entering into agreements described in section 34.209.

34.215. Any interested party, including a bidder, offeror, contractor, subcontractor, or taxpayer, shall have standing to challenge any bid specification, project agreement, controlling document, grant,

or cooperative agreement which violates the provisions of sections 34.203 to 34.215, and shall be awarded costs and attorney's fees if the challenge prevails.

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