

FIRST REGULAR SESSION

# SENATE BILL NO. 182

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR ONDER.

Pre-filed December 2, 2016, and ordered printed.

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ADRIANE D. CROUSE, Secretary.

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### 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.

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*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Section A. Sections 34.209, 34.212, and 34.216, RSMo, are repealed and 2 three new sections enacted in lieu thereof, to be known as sections 34.209, 34.212, 3 and 34.218, to read as follows: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. 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 of the state**, or any instrumentality thereof shall not issue **or award** grants, **tax abatements, or tax credits** or enter into cooperative agreements for construction projects **or for the improvement, maintenance, or renovation of real property or fixtures**, a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant, **tax abatement, tax credit**, or cooperative agreement contain any of the elements specified in section 34.209.

2. The state, any agency of the state, **any political subdivision**, or any instrumentality thereof shall exercise such authority as may be required to preclude a grant, **tax abatement, or tax credit** 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 [34.216] **34.217** shall prohibit contractors or subcontractors from voluntarily entering into agreements described in section 34.209.

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

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

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

2. The state or a political subdivision of the state may enter into a union-only project labor agreement for the procurement of construction services, except as provided in section 34.209, on a project-by-project basis only if the project is funded fifty percent or 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.]

Unofficial

Bill

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