

FIRST REGULAR SESSION

SENATE BILL NO. 241

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0535S.01I

ADRIANE D. CROUSE, Secretary

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
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 34.209, 34.212, and 34.219, to read as
4 follows:

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

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

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

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

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

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 [34.217] **34.219** shall prohibit contractors or 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 be defined as a multiemployer, multiunion prehire 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 ensuring 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 under 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:

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

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

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

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

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

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

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

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

45 3. (1) Any interested party may, within thirty days
46 of the determination of the state or political subdivision
47 as set forth under subdivision (4) of subsection 2 of this
48 section, appeal to the labor and industrial relations
49 commission for a determination as to whether the state or
50 political subdivision complied with subsection 2 of this
51 section for a union-only project labor agreement.

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

55 (3) The labor and industrial relations commission
56 shall hold a hearing on the appeal within sixty days of the

57 filing of the appeal. The commission shall issue its
58 decision within ninety days of the filing date of the appeal.

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

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

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

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

✓