

By the Committee on Governmental Oversight and Productivity;  
and Senator Sebesta

302-2125-00

1                                   A bill to be entitled  
2           An act relating to public procuring and  
3           contracting; providing a short title; providing  
4           a purpose; prohibiting the state, and any  
5           political subdivision, agency, or  
6           instrumentality of the state, from engaging in  
7           specified activities under certain procurement  
8           or contracting circumstances; authorizing  
9           challenge of certain procurement or contracting  
10          documents or agreements; providing for award of  
11          costs and attorney's fees under certain  
12          circumstances; providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. (1) This act may be cited as the "Open  
17 Contracting Act."

18           (2) The purpose of this act is to prohibit the state,  
19 and any political subdivision, agency, or instrumentality of  
20 the state, from imposing certain labor requirements as a  
21 condition of performing public works. However, nothing in  
22 this act prohibits bidders, offerors, contractors, or  
23 subcontractors from entering into or adhering to agreements  
24 with one or more labor organizations on the same or related  
25 projects, provided that the agreements are made voluntarily  
26 and without coercion.

27           (3) The state, and any political subdivision, agency,  
28 or instrumentality of the state, when procuring products or  
29 services or letting contracts for the manufacture or  
30 construction of public works, or overseeing such procurement,  
31 manufacture, or construction, shall ensure that bid

1 specifications, project agreements, and other controlling  
2 documents entered into, required, or subject to approval by  
3 the state, political subdivision, agency, or instrumentality  
4 do not:  
5 (a) Require bidders, offerors, contractors, or  
6 subcontractors to enter into or adhere to agreements with one  
7 or more labor organizations on the same or related projects;  
8 (b) Discriminate against bidders, offerors,  
9 contractors, or subcontractors for refusing to become or  
10 remain signatories or otherwise to adhere to agreements with  
11 one or more labor organizations on the same or related  
12 construction projects; or  
13 (c) Require any bidder, offeror, contractor, or  
14 subcontractor to enter into, adhere to, or enforce any  
15 agreement that requires its employees, as a condition of  
16 employment, to:  
17 1. Become members of or become affiliated with a labor  
18 organization; or  
19 2. Pay dues or fees to a labor organization, over an  
20 employee's objection, in excess of the employee's share of the  
21 labor organization's costs relating to collective bargaining,  
22 contract administration, or grievance adjustment.  
23 (4) Any bidder, offeror, contractor, or subcontractor  
24 that may suffer injury as a direct result of the operation of  
25 a bid specification, project agreement, or other controlling  
26 document that violates this act shall have standing to  
27 challenge those bid specifications, project agreements, or  
28 other controlling documents. The bidder, offeror, contractor,  
29 or subcontractor that prevails in such challenge shall be  
30 entitled to an award of its reasonable attorney's fees and  
31 costs.

1           Section 2. This act shall take effect October 1, 2000.

2

3                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
4                                   COMMITTEE SUBSTITUTE FOR  
5   SB 1082

6

6 Clarifies that the bill's only purpose is to prohibit  
7 governmental, not private, entities from imposing certain  
8 labor requirements.

9

9 Provides standing to raise a governmental entity's violation  
10 of the act to bidders, offerors, contractors, and  
11 subcontractors that may suffer injury.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31