

By Senators Cowin, Sebesta, Posey, Brown-Waite, Sanderson and Peadar

11-569-01

See HB 61

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.

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

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 shall prohibit 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 the agreements are made voluntarily and
26 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 adhere to agreements with one
11 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Section 2. This act shall take effect October 1, 2001.

LEGISLATIVE SUMMARY

Prohibits public entities from imposing requirements relating to labor organizations as a condition of procuring products or services or letting contracts for public works. Exempts bidders, offerors, contractors, or subcontractors from the prohibition if agreements with labor organizations are made voluntarily and without coercion. Authorizes challenges to public works projects or contracts that violate the prohibition. (See bill for details.)