

By Senator Hays

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1                   A bill to be entitled  
2           An act relating to public works projects; providing  
3           definitions; prohibiting the state and political  
4           subdivisions that contract for the construction,  
5           maintenance, repair, or improvement of public works  
6           from imposing certain conditions on certain  
7           contractors, subcontractors, or material suppliers or  
8           carriers; providing an exception; prohibiting the  
9           state and political subdivisions from restricting  
10          qualified bidders from submitting bids, being awarded  
11          any bid or contract, or performing work on a public  
12          works project; amending s. 120.57, F.S.; revising  
13          written protest filing requirements for protests to  
14          contract solicitations or awards; providing an  
15          effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19       Section 1. (1) As used in this section, the term:

20       (a) "Political subdivision" means a separate agency or unit  
21 of local government created or established by law or ordinance  
22 and the officers thereof and includes, but is not limited to, a  
23 county, city, town, or other municipality, department,  
24 commission, authority, school district, tax district, water  
25 management district, board, public corporation, institution of  
26 higher education, or other public agency or body authorized to  
27 expend public funds for construction, maintenance, repair, or  
28 improvement of public works.

29       (b) "Project labor agreement" means an arrangement

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30 mentioned, detailed, or outlined within the project plans,  
31 specifications, or any bidding documents of a public works  
32 project that:

33 1. Imposes requirements, controls, or limitations on  
34 staffing, sources of employee referrals, assignments of work,  
35 sources of insurance or benefits, including health, life, and  
36 disability insurance and retirement pensions, training programs  
37 or standards, or wages; or

38 2. Requires a contractor to enter into any sort of  
39 agreement as a condition of submitting a bid that directly or  
40 indirectly limits or requires the contractor to recruit, train,  
41 or hire employees from a particular source to perform work on  
42 public works or a public works project.

43 (c) "Public works" or "public works project" means a  
44 building, road, street, sewer, storm drain, water system,  
45 irrigation system, reclamation project, gas or electrical  
46 distribution system, gas or electrical substation, or other  
47 facility, project, or portion thereof, including repair,  
48 renovation, or remodeling, owned, in whole or in part by any  
49 political subdivision, and that is to be paid for in whole or in  
50 part with state funds.

51 (2) (a) Except as provided in paragraph (b), or as required  
52 by federal or state law, the state or any political subdivision  
53 that contracts for the construction, maintenance, repair, or  
54 improvement of public works shall not require that a contractor,  
55 subcontractor, material supplier, or carrier engaged in the  
56 construction, maintenance, repair, or improvement of public  
57 works:

58 1. Pay employees a predetermined amount of wages or wage

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59 rate;

60 2. Provide employees a specified type, amount, or rate of  
61 employee benefits;

62 3. Control or limit staffing;

63 4. Recruit, train, or hire employees from a designated or  
64 single source;

65 5. Designate any particular assignment of work for  
66 employees;

67 6. Participate in proprietary training programs; or

68 7. Enter into any type of project labor agreement.

69 (b) Paragraph (a) does not apply if the payment of  
70 prevailing or minimum wages to persons working on projects  
71 funded in whole or in part by federal funds is required under  
72 federal law.

73 (3) The state or any political subdivision that contracts  
74 for the construction, maintenance, repair, or improvement of  
75 public works shall not require that a contractor, subcontractor,  
76 material supplier, or carrier engaged in the construction,  
77 maintenance, repair, or improvement of public works execute or  
78 otherwise become a party to any agreement with employees, their  
79 representatives, or any labor organization as described in 29  
80 U.S.C. s. 152(5) and 42 U.S.C. s. 2000e(d), including any  
81 areawide, regional, or state building or construction trade or  
82 crafts council, organization, association, or similar body, as a  
83 condition of bidding, negotiating, being awarded any bid or  
84 contract, or performing work on a public works project.

85 (4) The state or any political subdivision that contracts  
86 for the construction, maintenance, repair, or improvement of any  
87 public works project shall not prohibit a contractor,

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88 subcontractor, material supplier, or carrier engaged in the  
89 construction, maintenance, repair, or improvement of public  
90 works, who is qualified, licensed, or certified to do any of the  
91 work described in the bid documents, from submitting bids, being  
92 awarded any bid or contract, or performing work on a public  
93 works project.

94 Section 2. Paragraph (b) of subsection (3) of section  
95 120.57, Florida Statutes, is amended to read:

96 120.57 Additional procedures for particular cases.—

97 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO  
98 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter  
99 shall use the uniform rules of procedure, which provide  
100 procedures for the resolution of protests arising from the  
101 contract solicitation or award process. Such rules shall at  
102 least provide that:

103 (b) Any person who is adversely affected by the agency  
104 decision or intended decision shall file with the agency a  
105 notice of protest in writing within 72 hours after the posting  
106 of the notice of decision or intended decision. With respect to  
107 a protest of the terms, conditions, and specifications contained  
108 in a solicitation, including any provisions governing the  
109 methods for ranking bids, proposals, or replies, awarding  
110 contracts, reserving rights of further negotiation, or modifying  
111 or amending any contract, the notice of protest shall be filed  
112 in writing within 7 days ~~72 hours~~ after the posting of the  
113 solicitation. The formal written protest shall be filed within  
114 10 days after the date the notice of protest is filed. Failure  
115 to file a notice of protest or failure to file a formal written  
116 protest shall constitute a waiver of proceedings under this

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117 chapter. The formal written protest shall state with  
118 particularity the facts and law upon which the protest is based.  
119 Saturdays, Sundays, and state holidays shall be excluded in the  
120 computation of the ~~72-hour~~ time periods provided by this  
121 paragraph.

122 Section 3. This act shall take effect upon becoming a law.