

HB 923

2011

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 from
6 imposing certain conditions on certain contractors,
7 subcontractors, or material suppliers or carriers;
8 providing an exception; prohibiting the state and
9 political subdivisions from restricting qualified bidders
10 from submitting bids, being awarded any bid or contract,
11 or performing work on a public works project; amending s.
12 120.57, F.S.; revising written protest filing requirements
13 for protests to contract solicitations or awards;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. (1) As used in this section, the term:
19 (a) "Political subdivision" means a separate agency or
20 unit of local government created or established by law or
21 ordinance and the officers thereof and includes, but is not
22 limited to, a county, city, town, or other municipality,
23 department, commission, authority, school district, tax
24 district, water management district, board, public corporation,
25 institution of higher education, or other public agency or body
26 authorized to expend public funds for construction, maintenance,
27 repair, or improvement of public works.

28 (b) "Project labor agreement" means an arrangement
 29 mentioned, detailed, or outlined within the project plans,
 30 specifications, or any bidding documents of a public works
 31 project that:

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

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

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

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

55 construction, maintenance, repair, or improvement of public
 56 works:

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

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

61 3. Control or limit staffing;

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

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

66 6. Participate in proprietary training programs; or

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

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

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

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82 condition of bidding, negotiating, being awarded any bid or
83 contract, or performing work on a public works project.

84 (4) The state or any political subdivision that contracts
85 for the construction, maintenance, repair, or improvement of any
86 public works project shall not prohibit a contractor,
87 subcontractor, or material supplier or carrier engaged in the
88 construction, maintenance, repair, or improvement of public
89 works, who is qualified, licensed, or certified to do any of the
90 work described in the bid documents, from submitting bids, being
91 awarded any bid or contract, or performing work on a public
92 works project.

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

95 120.57 Additional procedures for particular cases.—

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

102 (b) Any person who is adversely affected by the agency
103 decision or intended decision shall file with the agency a
104 notice of protest in writing within 72 hours after the posting
105 of the notice of decision or intended decision. With respect to
106 a protest of the terms, conditions, and specifications contained
107 in a solicitation, including any provisions governing the
108 methods for ranking bids, proposals, or replies, awarding
109 contracts, reserving rights of further negotiation, or modifying

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110 or amending any contract, the notice of protest shall be filed
111 in writing within 7 days ~~72 hours~~ after the posting of the
112 solicitation. The formal written protest shall be filed within
113 10 days after the date the notice of protest is filed. Failure
114 to file a notice of protest or failure to file a formal written
115 protest shall constitute a waiver of proceedings under this
116 chapter. The formal written protest shall state with
117 particularity the facts and law upon which the protest is based.
118 Saturdays, Sundays, and state holidays shall be excluded in the
119 computation of the ~~72-hour~~ time periods provided by this
120 paragraph.

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