

By Senator Hays

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1 A bill to be entitled
2 An act relating to public contracting; providing
3 definitions for the terms "governmental unit" and
4 "facility"; prohibiting a governmental unit that
5 contracts for the construction, repair, remodeling, or
6 improving of a facility from imposing conditions that
7 requires, prohibits, encourages, or discourages
8 certain bidders, contractors, or subcontractors from
9 entering into or adhering to agreements with a
10 collective bargaining organization; prohibiting a
11 governmental unit from granting certain awards as a
12 condition of certain contracts; prohibiting certain
13 terms from being placed in bid specifications, project
14 agreements, or other controlling documents; providing
15 exceptions; amending s. 120.57, F.S.; revising the
16 period during which an agency must file a protest
17 following certain contract solicitations or awards;
18 providing an effective date.

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

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

23 (a) "Facility" means an actual physical improvement to real
24 property that is owned or leased, directly or through a building
25 authority, by a governmental unit, including, but not limited
26 to, roads, bridges, runways, rails, or a building or structure,
27 along with the building's or structure's grounds, approaches,
28 services, and appurtenances.

29 (b) "Governmental unit" means this state; a county,

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30 municipality, school district, Florida college system
31 institution, or public university that receives appropriations
32 from this state; or any agency, board, commission, authority, or
33 instrumentality of the state.

34 (2) A governmental unit may not enter into or expend funds
35 under a contract for the construction, repair, remodeling, or
36 demolition of a facility if the contract or a subcontract under
37 the contract contains a term that:

38 (a) Requires, prohibits, encourages, or discourages
39 bidders, contractors, or subcontractors from entering into or
40 adhering to agreements with a collective bargaining organization
41 relating to the construction project or other related
42 construction projects.

43 (b) Discriminates against bidders, contractors, or
44 subcontractors based on the status as a party or nonparty to, or
45 the willingness or refusal to enter into, an agreement with a
46 collective bargaining organization relating to the construction
47 project or other related construction projects.

48 (3) A governmental unit may not award a grant, tax
49 abatement, or tax credit that is conditioned upon a requirement
50 that the awardee include a term described in paragraph (2) (a) or
51 paragraph (2) (b) in a contract document for any construction,
52 improvement, maintenance, or renovation to real property or
53 fixtures that are the subject of the grant, tax abatement, or
54 tax credit. This section does not prohibit a governmental unit
55 from awarding a grant, tax abatement, or tax credit to a private
56 owner, bidder, contractor, or subcontractor who enters into or
57 who is party to an agreement with a collective bargaining
58 organization, if being or becoming a party or adhering to an

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59 agreement with a collective bargaining organization is not a
60 condition for award of the grant, tax abatement, or tax credit,
61 and if the governmental unit does not discriminate against a
62 private owner, bidder, contractor, or subcontractor in the
63 awarding of that grant, tax abatement, or tax credit based upon
64 the status as being or becoming, or the willingness or refusal
65 to become, a party to an agreement with a collective bargaining
66 organization.

67 (4) A governmental unit or a construction manager or other
68 contracting entity acting on behalf of a governmental unit may
69 not place any of the terms described in subsection (2) in bid
70 specifications, project agreements, or other controlling
71 documents relating to the construction, repair, remodeling, or
72 demolition of a facility. Any such included term is void and of
73 no effect.

74 (5) This section does not:

75 (a) Apply to construction contracts executed before the
76 effective date of this act.

77 (b) Prohibit employers or other parties from entering into
78 agreements or engaging in any other activity protected by the
79 National Labor Relations Act, 29 U.S.C. ss. 151-169.

80 (c) Interfere with labor relations of parties that are
81 protected under the National Labor Relations Act, 29 U.S.C. ss.
82 151-169.

83 Section 2. Paragraph (b) of subsection (3) of section
84 120.57, Florida Statutes, is amended to read:

85 120.57 Additional procedures for particular cases.—

86 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
87 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter

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88 shall use the uniform rules of procedure, which provide
89 procedures for the resolution of protests arising from the
90 contract solicitation or award process. Such rules shall at
91 least provide that:

92 (b) Any person who is adversely affected by the agency
93 decision or intended decision shall file with the agency a
94 notice of protest in writing within 72 hours after the posting
95 of the notice of decision or intended decision. With respect to
96 a protest of the terms, conditions, and specifications contained
97 in a solicitation, including any provisions governing the
98 methods for ranking bids, proposals, or replies, awarding
99 contracts, reserving rights of further negotiation, or modifying
100 or amending any contract, the notice of protest shall be filed
101 in writing within 7 days ~~72 hours~~ after the posting of the
102 solicitation. The formal written protest shall be filed within
103 10 days after the date the notice of protest is filed. Failure
104 to file a notice of protest or failure to file a formal written
105 protest shall constitute a waiver of proceedings under this
106 chapter. The formal written protest shall state with
107 particularity the facts and law upon which the protest is based.
108 Saturdays, Sundays, and state holidays shall be excluded in the
109 computation of the ~~72-hour~~ time periods provided by this
110 paragraph.

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