

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

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

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

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

28 (b) "Governmental unit" means this state; a county,
29 municipality, school district, Florida College System

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30 institution, or public university that receives appropriations
31 from this state; or any agency, board, commission, authority, or
32 instrumentality of the state.

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

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

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

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

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

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

73 (5) This section does not:

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

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

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

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

84 120.57 Additional procedures for particular cases.—

85 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
86 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
87 shall use the uniform rules of procedure, which provide

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

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

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