

HB 844 -- OPEN CONTRACTING ACT

SPONSOR: Mayer

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 9 to 6.

This bill establishes the Open Contracting Act. The state and political subdivisions when procuring products, awarding contracts, issuing grants, or entering into cooperative agreements for construction of public works may not:

- (1) Require or prohibit contractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects or prohibit contractors from doing the same;
- (2) Discriminate against contractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related contracts; and
- (3) Require or prohibit any contractor from entering into any agreement that requires its employees to become members of or affiliated with a labor organization.

An interested party, including a bidder, contractor, or taxpayer, may challenge any bid specification, project agreement, controlling document, grant, or cooperative agreement in violation of this law and will be awarded costs and attorney fees if a challenge succeeds.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Unknown, less than \$100,000 in FY 2005, FY 2006, and FY 2007. Expected to be less than \$100,000. Total Estimated Net Effect on Other State Funds of \$0 in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that project labor agreements are discriminatory, more costly to the taxpayer, don't ensure local employment or project safety, and don't preclude labor disputes. Open shop contractors seldom bid on projects requiring project labor agreements due to restrictions on hiring and compensation. Contracts on public projects should be openly bid and awarded to the lowest reasonable bidder.

Testifying for the bill were Representative Mayer; Associated Builders and Contractors; IPI Glass; Independent Electrical Contractors; TGB Contractors; Air Conditioning Contractors Association; Associated General Contractors of Missouri; Missouri Chamber of Commerce and Industry; and Associated Industries of Missouri.

OPPONENTS: Those who oppose the bill say that project labor agreements are used for the purposes of pre-hire agreements which provide full knowledge of employee costs, employee availability, and terms and conditions for all contractors and subcontractors on the worksite. Project labor agreements prohibit discrimination based on union membership, offer workforce stability, and provide certain advantages to the state and political subdivisions, the use of which should be decided on a case by case basis, rather than precluded by law.

Testifying against the bill were Chris Koster, Cass County Prosecuting Attorney; Missouri State Building Trades; Greater Kansas City Building Trades Council; Carpenters' District Council of St. Louis; Carpenters' District Council of Kansas City; Missouri AFL-CIO; National Electrical Contractors Association-Kansas City Chapter; Council for Promoting American Business; Missouri Laborers; Missouri National Education Association.

Roland Tackett, Legislative Analyst