

SECOND REGULAR SESSION

HOUSE BILL NO. 2148

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VESCOVO.

5714H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 34.209, 34.212, and 34.216, RSMo, and to enact in lieu thereof two new sections relating to public contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 34.209, 34.212, and 34.216, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 34.209 and 34.212, to read as follows:

34.209. The state, any agency of the state, **any political subdivision of the state**, or any instrumentality thereof, when engaged in procuring or letting contracts for construction [of a project that is funded by greater than fifty percent of state funds], **repair, remodeling, or demolition of a facility** shall ensure that bid specification, project agreements, and other controlling documents entered into, required, or subject to approval by the state, agency, **political subdivision**, or instrumentality do not:

(1) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects; [or]

(2) Discriminate against bidders, offerors, contractors, or subcontractors for entering or refusing to enter or to remain signatory or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects; **or**

(3) **Encourage or give preferential treatment to bidders, offerors, contractors, or subcontractors for entering or refusing to enter or to remain signatory or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects.**

34.212. 1. The state, any agency of the state, **any political subdivision of the state**, or any instrumentality thereof shall not issue **or award grants, tax abatements, or tax credits** or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

3 enter into cooperative agreements for construction projects **or for the improvement,**
4 **maintenance, or renovation of real property or fixtures,** a condition of which requires that
5 bid specifications, project agreements, or other controlling documents pertaining to the grant, **tax**
6 **abatement, tax credit,** or cooperative agreement contain any of the elements specified in section
7 34.209.

8 2. The state, any agency of the state, **any political subdivision,** or any instrumentality
9 thereof shall exercise such authority as may be required to preclude a grant, **tax abatement, or**
10 **tax credit** recipient or party to a cooperative agreement from imposing any of the elements
11 specified in section 34.209 in connection with any grant or cooperative agreement awarded or
12 entered into. Nothing in sections 34.203 to 34.216 shall prohibit contractors or subcontractors
13 from voluntarily entering into agreements described in section 34.209.

2 [34.216. 1. For purposes of this section, the term "project labor
3 agreement" shall be defined as a multiemployer, multiunion pre-hire agreement
4 designed to systemize labor relations at a construction site that is required by the
5 state or a political subdivision of the state as a condition of a bid specification for
6 a construction project, thereby insuring that all contractors and subcontractors on
7 a project comply with the terms of a union-only agreement.

8 2. The state or a political subdivision of the state may enter into a
9 union-only project labor agreement for the procurement of construction services,
10 except as provided in section 34.209, on a project-by-project basis only if the
11 project is funded fifty percent or less with state funds and only on the condition
12 that:

13 (1) The state or political subdivision must analyze the impact of a
14 union-only project labor agreement and consider:

15 (a) Whether the union-only project labor agreement advances the
16 interests of the public entity and its citizens;

17 (b) Whether the union-only project labor agreement is appropriate
18 considering the complexity, size, cost impact, and need for efficiency on the
19 project;

20 (c) Whether the union-only project labor agreement impacts the
21 availability of a qualified work force; and

22 (d) Whether the scope of the union-only project labor agreement has a
23 business justification for the project as bid;

24 (2) The state or political subdivision shall publish the findings of
25 subdivision (1) of this subsection in a document titled "Intent to Enter Into a
26 Union Project Labor Agreement". The document shall establish a rational basis
27 upon which the state or political subdivision bases its intent to require a
28 union-only project labor agreement for the project;

29 (3) No fewer than fourteen days but not more than thirty days following
publication of the notice of a public hearing, the state or political subdivision

30 shall conduct a public hearing on whether to proceed with its intent to require a
31 union-only project labor agreement;

32 (4) Within thirty days of the public hearing set forth in subdivision (3)
33 of this subsection, the state or political subdivision shall publish its determination
34 on whether or not to require a union-only project labor agreement.

35 3. (1) Any interested party may, within thirty days of the determination
36 of the state or political subdivision as set forth in subdivision (4) of subsection
37 2 of this section, appeal to the labor and industrial relations commission for a
38 determination as to whether the state or political subdivision complied with
39 subsection 2 of this section for a union-only project labor agreement as defined
40 in subsection 1 of this section.

41 (2) The labor and industrial relations commission shall consider the
42 appeal in subdivision (1) of this section under a rational basis standard of review.

43 (3) The labor and industrial relations commission shall hold a hearing on
44 the appeal within sixty days of the filing of the appeal. The commission shall
45 issue its decision within ninety days of the filing date of the appeal.

46 (4) Any aggrieved party from the labor and industrial relations
47 commission decision set forth in subdivision (3) of this subsection may file an
48 appeal with the circuit court of Cole County within thirty days of the
49 commission's decision.]

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