

FIRST REGULAR SESSION

# SENATE BILL NO. 310

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0300S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 8.968, 8.970, and 8.974, RSMo, and to enact in lieu thereof three new sections relating to public contracts.

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

Section A. Sections 8.968, 8.970, and 8.974, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 8.968, 8.970, and 8.976, to read as follows:

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

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

14 (2) Discriminate against[, encourage, or give  
15 preferential treatment to bidders, offerors, contractors, or  
16 subcontractors for:

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

(a) Entering or refusing to enter agreements with one or more labor organizations on the same or related construction projects; or

(b) Remaining or refusing to remain signatory with one or more labor organizations on the same or related construction projects.

2. Nothing in this section shall be construed to prohibit the state, any agency of the state, any political subdivision of the state, or any instrumentality thereof from requiring bidders, offerors, contractors, or subcontractors, as a condition of receiving work or submitting a bid, to test its workers and employees for the presence of illegal drugs] **bidders, offerors, contractors, or subcontractors for entering, refusing to enter, or refusing to remain signatory or otherwise adherent to agreements with one or more labor organizations on the same or related construction projects.**

8.970. 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 enter into cooperative agreements for construction projects [or for the improvement, maintenance, or renovation of real property or fixtures], a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant[, tax abatement, tax credit,] or cooperative agreement contain any of the elements specified in section 8.968.

2. The state, any agency of the state, [any political subdivision,] or any instrumentality thereof shall exercise such authority as may be required to preclude a grant[, tax abatement, or tax credit] recipient or party to a cooperative agreement from imposing any of the elements

16 specified in section 8.968 in connection with any grant or  
17 cooperative agreement awarded or entered into. Nothing in  
18 sections 8.964 to [8.974] 8.976 shall prohibit contractors  
19 or subcontractors from voluntarily entering into agreements  
20 described in section 8.968.

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

10 2. The state or a political subdivision of the state  
11 may enter into a union-only project labor agreement for the  
12 procurement of construction services, except as provided  
13 under section 8.966, on a project-by-project basis only if  
14 the project is funded fifty percent or less with state funds  
15 and only on the condition that:

16 (1) The state or political subdivision shall analyze  
17 the impact of a union-only project labor agreement and  
18 consider:

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

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

24 (c) Whether the union-only project labor agreement  
25 impacts the availability of a qualified workforce; and

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

29           (2) The state or political subdivision shall publish  
30 the findings of subdivision (1) of this subsection in a  
31 document titled "Intent to Enter into a Union-Only Project  
32 Labor Agreement". The document shall establish a rational  
33 basis upon which the state or political subdivision bases  
34 its intent to require a union-only project labor agreement  
35 for the project;

36           (3) No fewer than fourteen days, but not more than  
37 thirty days, following publication of the findings, the  
38 state or political subdivision shall conduct a public  
39 hearing on whether to proceed with its intent to require a  
40 union-only project labor agreement; and

41           (4) Within thirty days of the public hearing set forth  
42 under subdivision (3) of this subsection, the state or  
43 political subdivision shall publish its determination on  
44 whether to require a union-only project labor agreement.

45           3. (1) Any interested party may, within thirty days  
46 of the determination of the state or political subdivision  
47 as set forth under subdivision (4) of subsection 2 of this  
48 section, appeal to the labor and industrial relations  
49 commission for a determination as to whether the state or  
50 political subdivision complied with subsection 2 of this  
51 section for a union-only project labor agreement.

52           (2) The labor and industrial relations commission  
53 shall consider the appeal under subdivision (1) of this  
54 subsection under a rational basis standard of review.

55           (3) The labor and industrial relations commission  
56 shall hold a hearing on the appeal within sixty days of the

57 filing of the appeal. The commission shall issue its  
58 decision within ninety days of the filing date of the appeal.

59 (4) Any aggrieved party from the labor and industrial  
60 relations commission's decision set forth under subdivision  
61 (3) of this subsection may file an appeal with the circuit  
62 court of Cole County within thirty days of the commission's  
63 decision.

2 [8.974. 1. Any entity which violates the  
3 provisions of sections 8.964 to 8.974 shall be  
4 liable to the person affected for such equitable  
5 relief as may be appropriate, including  
6 reasonable attorney's fees.]

7 2. Any entity which violates the  
8 provisions of sections 8.964 to 8.974 shall not  
9 be eligible for any state funding or tax credits  
10 issued by the state for two years.]

11 3. The prosecuting attorney or circuit  
12 attorney with jurisdiction over the location  
13 where a violation of sections 8.964 to 8.974  
14 occurs, or the attorney general of this state,  
15 shall investigate complaints of violation of  
16 such sections, and use all means at their  
17 command to ensure the effective enforcement of  
this section.]

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