

SENATE BILL NO. 1156

November 26, 2024, Introduced by Senator CAVANAGH and referred to the Committee on Labor.

A bill to amend 2011 PA 98, entitled
"Fair and open competition in governmental construction act,"
by amending the title and sections 5, 7, 9, and 13 (MCL 408.875,
408.877, 408.879, and 408.883), as amended by 2012 PA 238, and by
adding section 5a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

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An act to provide for fair and open competition in

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governmental construction contracts, grants, tax abatements, and

1 tax credits; to prohibit requirements for certain terms in
 2 government contracts ~~;~~ **and contracts supported through government**
 3 **grants and tax subsidies and abatements; to prohibit expenditure of**
 4 **public funds under certain conditions;** to prohibit certain terms in
 5 procurement documents for certain expenditures involving public
 6 facilities; and to provide for powers and duties of certain public
 7 officers, employees, and contractors.

8 Sec. 5. ~~Subject to section 8, a governmental unit awarding a~~
 9 ~~contract on or after the effective date of the amendatory act that~~
 10 ~~added section 2 for the construction, repair, remodeling, or~~
 11 ~~demolition of a facility and any construction manager acting on its~~
 12 ~~behalf shall not, in any bid specifications, project agreements, or~~
 13 ~~other controlling documents:~~

14 ~~(a) Require or prohibit a bidder, offeror, contractor, or~~
 15 ~~subcontractor from entering into or adhering to an agreement with 1~~
 16 ~~or more labor organizations in regard to that project or a related~~
 17 ~~construction project.~~

18 ~~(b) Otherwise discriminate against a bidder, offeror,~~
 19 ~~contractor, or subcontractor for becoming or remaining or refusing~~
 20 ~~to become or remain a signatory to, or for adhering or refusing to~~
 21 ~~adhere to, an agreement with 1 or more labor organizations in~~
 22 ~~regard to that project or a related construction project.~~ **Subject to**
 23 **section 5a, a governmental unit shall not enter into or expend**
 24 **funds under a contract for the construction, repair, remodeling, or**
 25 **demolition of a facility if the contract or a subcontract under the**
 26 **contract includes any of the following:**

27 **(a) A term that requires, prohibits, encourages, or**
 28 **discourages a bidder, contractor, or subcontractor from entering**
 29 **into or adhering to an agreement with a collective bargaining**

1 organization relating to the construction project or other related
2 construction projects.

3 (b) A term that discriminates against a bidder, contractor, or
4 subcontractor based on the bidder's, contractor's, or
5 subcontractor's status as a party or nonparty to, or its
6 willingness or refusal to enter into, an agreement with a
7 collective bargaining organization relating to the construction
8 project or other related construction projects.

9 Sec. 5a. Section 5, as amended by the amendatory act that
10 added this section, applies to contracts and subcontracts that are
11 entered into, extended, amended, or renewed on or after the
12 effective date of that amendatory act.

13 ~~Sec. 7. Subject to section 8, a~~ A governmental unit shall not
14 award a grant, tax abatement, or tax credit that is conditioned
15 ~~upon~~ on a requirement that the awardee include a term described in
16 section 5(a) or (b) in a contract document for any construction,
17 improvement, maintenance, or renovation to real property or
18 fixtures that are the subject of the grant, tax abatement, or tax
19 credit. This section does not prohibit a governmental unit from
20 awarding a grant, tax abatement, or tax credit to a private owner,
21 bidder, contractor, or subcontractor who enters into or who is a
22 party to an agreement with a collective bargaining organization if
23 both of the following conditions are met:

24 (a) Being or becoming a party or adhering to an agreement with
25 a collective bargaining organization is not a condition for award
26 of the grant, tax abatement, or tax credit.

27 (b) The governmental unit does not discriminate against a
28 private owner, bidder, contractor, or subcontractor in the awarding
29 of the grant, tax abatement, or tax credit based on the private

1 owner's, bidder's, contractor's, or subcontractor's status as being
2 or becoming, or its willingness or refusal to become, a party to an
3 agreement with a collective bargaining organization.

4 ~~Sec. 9. The head of a governmental unit may exempt a~~
5 ~~particular project, contract, subcontract, grant, tax abatement, or~~
6 ~~tax credit from the requirements of any or all of the provisions of~~
7 ~~section 5 or 7 if the governmental unit finds, after public notice~~
8 ~~and a hearing, that special circumstances require an exemption to~~
9 ~~avert an imminent threat to public health or safety. A finding of~~
10 ~~special circumstances under this section shall not be based on the~~
11 ~~possibility or presence of a labor dispute concerning the use of~~
12 ~~contractors or subcontractors who are nonsignatories to, or~~
13 ~~otherwise do not adhere to, agreements with 1 or more labor~~
14 ~~organizations, or concerning employees on the project who are not~~
15 ~~members of or affiliated with a labor organization.~~**A governmental**
16 **unit or a construction manager or other contracting entity acting**
17 **on behalf of a governmental unit shall not include any of the terms**
18 **described in section 5 in bid specifications, project agreements,**
19 **or other controlling documents relating to the construction,**
20 **repair, remodeling, or demolition of a facility. If a term**
21 **described in section 5 is included in bid specifications, project**
22 **agreements, or other controlling documents relating to the**
23 **construction, repair, remodeling, or demolition of a facility, the**
24 **term is void.**

25 Sec. 13. This act does not do either of the following:

26 (a) Prohibit employers or other parties from entering into
27 agreements or engaging in any other activity protected by the
28 national labor relations act, 29 USC 151 to 169.

29 (b) Interfere with labor relations of parties that are ~~left~~

1 ~~unregulated~~**protected** under the national labor relations act, 29
2 USC 151 to 169.

3 Enacting section 1. Sections 2 and 8 of the fair and open
4 competition in governmental construction act, 2011 PA 98, MCL
5 408.872 and 408.878, are repealed.