LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature
First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1006

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO RIGHT TO WORK; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 20, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2013, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT IN REGARD TO CONTRACTS FOR CERTAIN PUBLIC WORKS THE STATE OR ANY POLITICAL SUBDIVISION SHALL NOT REQUIRE CERTAIN PAYMENT TO CERTAIN EMPLOYEES, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE THAT IN REGARD TO CONTRACTS FOR CERTAIN PUBLIC WORKS THE STATE OR ANY POLITICAL SUBDIVISION SHALL NOT REQUIRE THAT A CONTRACTOR, SUBCONTRACTOR, MATERIAL SUPPLIER OR CARRIER ENGAGED IN PUBLIC WORKS BECOMES A PARTY TO CERTAIN AGREEMENTS, TO PROVIDE FOR STANDING AND TO PROVIDE FOR APPLICATION OF LAWS; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to maintain and strengthen state law to protect open access to work for all Idahoans.

SECTION 2. That Chapter 20, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-2013, Idaho Code, and to read as follows:

44-2013. PUBLIC WORKS -- WAGES. Notwithstanding any other provision found in chapter 10, title 44, Idaho Code, and chapter 57, title 67, Idaho Code, the following shall apply:
   (1) This act shall be known as the "Open Access to Work Act."
   (2) For purposes of this section, the following terms have the following meanings:
      (a) "Political subdivision" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.
      (b) "Public works" shall have the same meaning as that provided for "public works construction" in section 54-1901, Idaho Code.
      (3) (a) Except as provided in subsection (3)(b) of this section or as required by federal or state law, the state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works pay its employees:
         (i) A predetermined amount of wages or wage rate; or
         (ii) A type, amount or rate of employee benefits.
(b) Subsection (3)(a) of this section shall not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(4) The state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works executes or otherwise becomes a party to any project labor agreement, collective bargaining agreement, prehire agreement or any other agreement with employees, their representatives or any labor organization as a condition of bidding, negotiating, being awarded or performing work on a public works project.

(5) Any interested party, which shall include a bidder, offeror, contractor, subcontractor or taxpayer, shall have standing to challenge any bid award, specification, project agreement, controlling document, grant or cooperative agreement that violated the provisions of this section, and such interested party shall be awarded costs and attorney's fees in the event that such challenge prevails.

(6) The provisions of this section apply to any contract executed after July 1, 2011.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.