

SENATE BILL NO. 76

BY SENATOR MARTINY AND REPRESENTATIVES LIGI AND NOWLIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 38:2211(A)(12) and to enact R.S. 38:2225.5, relative to contracts by public entities; to provide for certain restrictions; to provide for definitions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2211(A)(12) is hereby amended and reenacted and R.S. 38:2225.5 is hereby enacted to read as follows:

§2211. Definitions

A. As used in this Chapter unless the context clearly indicates otherwise, the following terms shall mean:

* * *

(12) "Public work" means the **operation**, erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity.

* * *

§2225.5. Contracts in which public entities are participants; prohibitions and duties; contractors' rights

A. Except as provided in Subsection E of this Section or as required by

1 federal law, each public entity, when engaged in procuring products or services
2 or letting contracts for construction, manufacture, or operation of public works
3 paid for in whole or in part by state or local funds, or when overseeing or
4 administering such procurement, construction, manufacture, or operation, shall
5 ensure that bid specifications, project agreements, and other controlling
6 documents, entered into, required, or subject to approval by the public entity
7 do not:

8 (1) Require bidders, offerors, contractors, subcontractors, or operators

9 to:

10 (a) Enter into or adhere to agreements with one or more labor
11 organizations on the same or related projects.

12 (b) Enter into any agreement whereby the public entity is required to
13 remain neutral toward any labor organization.

14 (c) Pay predetermined or prevailing wages.

15 (2) Discriminate against bidders, offerors, contractors, subcontractors,
16 or operators for refusing to:

17 (a) Become or remain signatories or otherwise adhere to agreements
18 with one or more labor organizations on the same or related projects.

19 (b) Enter into any agreement whereby the public entity is required to
20 remain neutral toward any labor organization.

21 (3) Require any bidders, offerors, contractors, subcontractors, or
22 operators to enter into, adhere to, or enforce any agreement that requires any
23 employee as a condition of employment to:

24 (a) Become a member of or become affiliated with a labor organization.

25 (b) Pay dues or fees to a labor organization over the employee's
26 objection.

27 B. No public entity shall provide financial assistance, issue a grant, or
28 enter into a cooperative agreement for any project a condition of which requires
29 that bid specifications, project agreements, or other controlling documents
30 pertaining to the financial assistance, grant, or cooperative agreement contain

1 any of the elements prohibited in Subsection A of this Section.

2 C. Nothing herein shall prohibit contractors or subcontractors from
 3 voluntarily entering into agreements described in this Section.

4 D. Any interested party, which shall include a bidder, offeror,
 5 contractor, subcontractor, operator, or taxpayer, shall have standing to
 6 challenge any bid specification, project agreement, neutrality agreement,
 7 controlling document, grant, or cooperative agreement which violates the
 8 provisions of this Section. Furthermore, such party is authorized to and shall
 9 receive injunctive relief to prevent violations of this Section upon a proper
 10 showing under the standards of the Louisiana Code of Civil Procedure.

11 E. The provisions of this Section shall not apply to the following:

12 (a) Any inmate work-release program.

13 (b) Any contract pursuant to the Louisiana Quality Jobs Program.

14 (c) Any contract or cooperative endeavor agreement pursuant to the
 15 Incumbent Worker Training Program.

16 (d) Any public-private agreement for any construction or infrastructure
 17 project in which the private entity, as a condition of its investment or
 18 partnership with the public entity, requires that the private entity have the right
 19 to control its labor relations policy with its own employees and the employees
 20 of its contractors and subcontractors in any manner permitted by the National
 21 Labor Relations Act, 29 U.S.C. 151 et seq.

22 Section 2. If any provision or item of this Act or the application thereof is held
 23 invalid, such invalidity shall not affect other provisions, items, or applications of this Act
 24 which can be given effect without the invalid provisions, items, or applications, and to this
 25 end the provisions of this Act are hereby declared severable.

26 Section 3. The provisions of this instrument are enacted pursuant to the police power
 27 of the state.

28 Section 4. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____