



1 act are to provide for the efficient procurement of goods and  
2 services by governmental units; to promote the economical,  
3 nondiscriminatory, and efficient administration and completion of  
4 state and state-funded or state-assisted construction projects; to  
5 provide for fair and open competition for construction contracts,  
6 grants, tax abatements, and tax credits awarded by governmental  
7 units; to prohibit requirements for certain terms in construction  
8 contracts and construction contracts awarded by governmental units  
9 and supported through grants and tax subsidies and abatements by  
10 governmental units; to prohibit expenditure of public funds under  
11 certain conditions; to prohibit certain terms in procurement  
12 documents for certain expenditures by governmental units involving  
13 public facilities; and to provide powers and duties for certain  
14 public officers, employees, and contractors.

15 SECTION 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 82 of Title 61, unless there is  
17 created a duplication in numbering, reads as follows:

18 As used in the Fair and Open Competition in Governmental  
19 Construction Act:

20 1. "Public improvement" means any beneficial or valuable change  
21 or addition, betterment, enhancement or amelioration of or upon any  
22 real property, or interest therein, belonging to a public agency  
23 intended to enhance its value, beauty or utility or to adapt it to  
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1 new or further purposes. The term does not include the direct  
2 purchase of materials, equipment or supplies by a public agency, or  
3 any personal property; and

4 2. "Public agency" means the State of Oklahoma, and any county,  
5 city, town, school district or other political subdivision of the  
6 state, any public trust, any public entity specifically created by  
7 the statutes of the State of Oklahoma or as a result of statutory  
8 authorization therefor, and any department, agency, board, bureau,  
9 commission, committee or authority of any of the foregoing public  
10 entities.

11 SECTION 3. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 83 of Title 61, unless there is  
13 created a duplication in numbering, reads as follows:

14 A public agency awarding any contract for the construction,  
15 repair, remodeling, or demolition of a public improvement or  
16 obligating funds pursuant to such a contract, shall ensure that  
17 neither the awarding public agency nor any construction manager  
18 acting on behalf of the public agency shall, in its bid  
19 specifications, project agreements, or other controlling documents,  
20 include:

21 1. A term that requires, prohibits, encourages, or discourages  
22 bidders, contractors, or subcontractors from entering into or  
23 adhering to agreements with a collective bargaining organization

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 relating to the construction project or other related construction  
2 projects; and

3 2. A term that discriminates against bidders, contractors, or  
4 subcontractors based on the status as a party or nonparty to, or the  
5 willingness or refusal to enter into, an agreement with a collective  
6 bargaining organization relating to the construction project or  
7 other related construction projects.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 84 of Title 61, unless there is  
10 created a duplication in numbering, reads as follows:

11 A public agency shall not award a grant, tax abatement, or tax  
12 credit that is conditioned upon a requirement that the awardee  
13 include a term described in Section 3 of the Fair and Open  
14 Competition in Governmental Construction Act in a contract document  
15 for any construction, improvement, maintenance, or renovation to  
16 real property or fixtures that are the subject of the grant, tax  
17 abatement, or tax credit.

18 SECTION 5. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 85 of Title 61, unless there is  
20 created a duplication in numbering, reads as follows:

21 A public agency or a construction manager or other contracting  
22 entity acting on behalf of a public agency shall not place any of  
23 the terms described in Section 3 of the Fair and Open Competition in  
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1 Governmental Construction Act in bid specifications, project  
2 agreements, or other controlling documents relating to the  
3 construction, repair, remodeling, or demolition of a public  
4 improvement. Any such included term is void and of no effect.

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 86 of Title 61, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. The requirements of the Fair and Open Competition in  
9 Governmental Construction Act do not apply to public construction  
10 contracts executed before November 1, 2012.

11 B. The Fair and Open Competition in Governmental Construction  
12 Act does not:

13 1. Prohibit employers or other parties from entering into  
14 agreements or engaging in any other activity protected by the  
15 National Labor Relations Act, 29 U.S.C., Sections 151 to 169;

16 2. Interfere with labor relations of parties that are protected  
17 under the National Labor Relations Act, 29 U.S.C., Sections 151 to  
18 169; or

19 3. Prohibit a public agency from awarding a public contract,  
20 grant, tax abatement, or tax credit to a private owner, bidder,  
21 contractor, or subcontractor who enters into or who is party to an  
22 agreement with a collective bargaining organization, if being or  
23 becoming a party or adhering to an agreement with a collective

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1 bargaining organization is not a condition for award of the public  
2 contract, grant, tax abatement, or tax credit, and if the public  
3 agency does not discriminate against a private owner, bidder,  
4 contractor, or subcontractor in the awarding of that grant, tax  
5 abatement, or tax credit based upon the status as being or becoming,  
6 or the willingness or refusal to become, a party to an agreement  
7 with a collective bargaining organization.

8 SECTION 7. This act shall become effective November 1, 2012.

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10 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
11 FINANCIAL SERVICES, dated 02/16/2012 - DO PASS, As Coauthored.

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