

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1486

By: Brown

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6 AS INTRODUCED

7 An Act relating to government contracts; creating the
8 Fair and Open Competition in Governmental
9 Construction Act; providing short title; defining
10 terms; providing for fair and open competition in
11 governmental construction contracts, grants, tax
12 abatements, and tax credits; prohibiting requirements
13 for certain terms in government contracts and
14 contracts supported through government grants and tax
15 subsidies and abatements; prohibiting expenditure of
16 public funds under certain conditions; prohibiting
17 certain terms in procurement documents for certain
18 expenditures involving public facilities; providing
19 for powers and duties of certain public officers,
20 employees, and contractors; providing for
21 codification; providing an effective date; and
22 declaring an emergency.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 300 of Title 61, unless there is
20 created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Fair and Open
22 Competition in Governmental Construction Act".
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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 300.1 of Title 61, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Fair and Open Competition in Governmental
5 Construction Act:

6 1. "Facility" means any actual physical improvement to real
7 property owned, or leased, directly or through a building authority,
8 by a governmental unit, including, but not limited to, roads,
9 bridges, runways, rails, or a building or structure along with the
10 building's or structure's grounds, approaches, services, and
11 appurtenances; and

12 2. "Governmental unit" means this state, a county, city,
13 township, village, school district, intermediate school district,
14 community college, or public university that receives appropriations
15 from this state, or any agency, board, commission, authority, or
16 instrumentality of the foregoing.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 300.2 of Title 61, unless there
19 is created a duplication in numbering, reads as follows:

20 Notwithstanding any other provision of law, a governmental unit
21 shall not enter into or expend funds under a contract for the
22 construction, repair, remodeling, or demolition of a facility if the
23 contract or a subcontract under the contract contains any of the
24 following:

1 1. A term that requires, prohibits, encourages, or discourages
2 bidders, contractors, or subcontractors from entering into or
3 adhering to agreements with a collective bargaining organization
4 relating to the construction project or other related construction
5 projects; or

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

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 300.3 of Title 61, unless there
13 is created a duplication in numbering, reads as follows:

14 A governmental unit shall not award a grant, tax abatement, or
15 tax credit that is conditioned upon a requirement that the awardee
16 include a term described in paragraph 1 or 2 of Section 3 of this
17 act in a contract document for any construction, improvement,
18 maintenance, or renovation to real property or fixtures that are the
19 subject of the grant, tax abatement, or tax credit.

20 This section does not prohibit a governmental unit from awarding
21 a grant, tax abatement, or tax credit to a private owner, bidder,
22 contractor, or subcontractor who enters into or who is party to an
23 agreement with a collective bargaining organization, if being or
24 becoming a party or adhering to an agreement with a collective

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

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 300.4 of Title 61, unless there
10 is created a duplication in numbering, reads as follows:

11 A governmental unit or a construction manager or other
12 contracting entity acting on behalf of a governmental unit shall not
13 place any of the terms described in Section 3 of this act in bid
14 specifications, project agreements, or other controlling documents
15 relating to the construction, repair, remodeling, or demolition of a
16 facility. Any such included term is void and of no effect.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 300.5 of Title 61, unless there
19 is created a duplication in numbering, reads as follows:

20 The requirements of this act shall not be construed to apply to
21 construction contracts executed before the effective date of this
22 act.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 300.6 of Title 61, unless there
3 is created a duplication in numbering, reads as follows:

4 The provisions of this act shall not be construed to:

5 1. Prohibit employers or other parties from entering into
6 agreements or engaging in any other activity protected by the
7 National Labor Relations Act pursuant to 29 U.S.C. 151 to 169; or

8 2. Interfere with labor relations of parties that are protected
9 under the National Labor Relations Act pursuant to 29 U.S.C. 151 to
10 169.

11 SECTION 8. This act shall become effective July 1, 2012.

12 SECTION 9. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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