

§ 143-133.5. Public contracts; labor organizations.

(a) It is the intent of the General Assembly that the provisions of this section will provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction-related services by the State and political subdivisions of the State as market participants. The General Assembly finds that providing for fair and open competition best effectuates this intent.

(b) Every officer, board, department, commission, or commissions charged with the responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration, or repair of any buildings for the State, or for any county, municipality, or other public body subject to this Article shall not in any bid specifications, project agreements, or other controlling documents:

- (1) Require or prohibit a bidder, offeror, contractor, or subcontractor from adhering to an agreement with one or more labor organizations in regard to that project or a related construction project.
- (2) Otherwise discriminate against a bidder, offeror, contractor, or subcontractor for becoming, remaining, refusing to become or remain a signatory to, or for adhering or refusing to adhere to an agreement with one or more labor organizations in regard to that project or a related construction project.

(c) No officer, board, department, commission, or commissions charged with the responsibility of awarding grants or tax incentives, or any county, municipality, or other public body in the award of grants or tax incentives, may award a grant or tax incentive that is conditioned upon a requirement that the awardee include a term described in subsection (b) of this section in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant or tax incentive.

(d) This section does not prohibit any officer, board, department, commission, or commissions or any county, municipality, or other public body from awarding a contract, grant, or tax incentive to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, or tax incentive, and if the State agent, employee, or board or the political subdivision does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, or tax incentive based upon the person's status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.

(e) This section does not prohibit a contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract with the State or a political subdivision of the State or funded in whole or in part from a grant or tax incentive from the State or political subdivision.

(f) The State or the governing body of a political subdivision may exempt a particular project, contract, subcontract, grant, or tax incentive from the requirements of any or all of the provisions of subsection (b) or (c) of this section if the State or governing body of the political subdivision finds, after public notice and a hearing, that special circumstances require an exemption to avert a significant, documentable threat to public health or safety. A finding of special circumstances under this section shall not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

(g) This section does not do either of the following:

- (1) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. §§ 151 to 169.
- (2) Interfere with labor relations of parties that are left unregulated under the National Labor Relations Act, 29 U.S.C. §§ 151 to 169. (2013-267, s. 1.)