

**SUBSTITUTE FOR  
SENATE BILL NO. 165**

A bill to provide for fair and open competition in governmental construction contracts, grants, tax abatements, and tax credits; to prohibit requirements for certain terms in government contracts and contracts supported through government grants and tax subsidies and abatements; to prohibit expenditure of public funds under certain conditions; to prohibit certain terms in procurement documents for certain expenditures involving public facilities; and to provide for powers and duties of certain public officers, employees, and contractors.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "fair  
2       and open competition in governmental construction act".

1       Sec. 3. As used in this act:

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

8       (b) "Governmental unit" means this state, a county, city,  
9 township, village, school district, intermediate school district,  
10 community college, or public university that receives  
11 appropriations from this state, or any agency, board, commission,  
12 authority, or instrumentality of the foregoing.

13       Sec. 5. A governmental unit shall not enter into or expend  
14 funds under a contract for the construction, repair, remodeling, or  
15 demolition of a facility if the contract or a subcontract under the  
16 contract contains any of the following:

17       (a) A term that requires, prohibits, encourages, or  
18 discourages bidders, contractors, or subcontractors from entering  
19 into or adhering to agreements with a collective bargaining  
20 organization relating to the construction project or other related  
21 construction projects.

22       (b) A term that discriminates against bidders, contractors, or  
23 subcontractors based on the status as a party or nonparty to, or  
24 the willingness or refusal to enter into, an agreement with a  
25 collective bargaining organization relating to the construction  
26 project or other related construction projects.

27       Sec. 7. A governmental unit shall not award a grant, tax

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1 abatement, or tax credit that is conditioned upon a requirement  
2 that the awardee include a term described in section 5(a) or (b) in  
3 a contract document for any construction, improvement, maintenance,  
4 or renovation to real property or fixtures that are the subject of  
5 the grant, tax abatement, or tax credit. <<This section does not  
prohibit a governmental unit from awarding a grant, tax abatement,  
or tax credit to a private owner, bidder, contractor, or  
subcontractor who enters into or who is party to an agreement with  
a collective bargaining organization, if being or becoming a party or  
adhering to an agreement with a collective bargaining organization is  
not a condition for award of the grant, tax abatement, or tax credit,  
and if the governmental unit does not discriminate against a private  
owner, bidder, contractor, or subcontractor in the awarding of that  
grant, tax abatement, or tax credit based upon the status as being  
or becoming, or the willingness or refusal to become, a party to an  
agreement with a collective bargaining organization.>>

6 Sec. 9. A governmental unit or a construction manager or other  
7 contracting entity acting on behalf of a governmental unit shall  
8 not place any of the terms described in section 5 in bid  
9 specifications, project agreements, or other controlling documents  
10 relating to the construction, repair, remodeling, or demolition of  
11 a facility. Any such included term is void and of no effect.

12 Sec. 11. The requirements of this act do not do either of the  
13 following:

14 (a) Affect any provision in 1965 PA 166, MCL 408.551 to  
15 408.558.

16 (b) Apply to construction contracts executed before the  
17 effective date of this act.

18 Sec. 13. This act does not do either of the following:

19 (a) Prohibit employers or other parties from entering into  
20 agreements or engaging in any other activity protected by the  
21 national labor relations act, 29 USC 151 to 169.

22 (b) Interfere with labor relations of parties that are  
23 protected under the national labor relations act, 29 USC 151 to  
24 169.