

SENATE BILL No. 165

February 17, 2011, Introduced by Senators MOOLENAAR, KAHN, JANSEN, BOOHER, MEEKHOF, GREEN, CASWELL, WALKER, PAVLOV, PROOS, MARLEAU, SCHUITMAKER, HILDENBRAND, PAPPAGEORGE, ROBERTSON, HANSEN, EMMONS, COLBECK, JONES, CASPERSON and BRANDENBURG and referred to the Committee on Reforms, Restructuring and Reinventing.

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

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.

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 apply to
13 construction contracts executed before the effective date of this
14 act.