

CHAPTER 38

(HB 135)

AN ACT relating to contracting of public works projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

- (1) *"Public agency" as used in Sections 2 and 3 of this Act has the same meaning as KRS 61.870.*
- (2) *"Public works" as used in Sections 2 and 3 of this Act means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities," as defined in KRS 197.500, constructed under contract with any public agency.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

- (1) *A public agency awarding a contract for a public works project shall not in the bid specifications, project agreements, or other contract documents:*
 - (a) *Require or give preference to a bidder, offeror, or contractor in any contractor tier to enter into or adhere to an agreement with a labor organization relating to the public works contract or any other public works project; or*
 - (b) *Prohibit a bidder, offeror, or contractor in any contractor tier from entering into or adhering to an agreement with a labor organization relating to the public works project or any other public works project.*
- (2) *A public agency shall not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that a person awarded the grant, tax abatement, or tax credit include a term described in subsection (1) of this section in a contract document for any public works project that is the subject of the grant, tax abatement, or tax credit.*
- (3) *This section does not do any of the following:*
 - (a) *Prohibit a public agency from awarding a contract, grant, tax abatement, or tax credit to a private owner, bidder, or contractor in any contractor tier 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, tax abatement, or tax credit;*
 - (b) *Prohibit a contractor in any contractor tier from voluntarily entering into or complying with an agreement entered into with a labor union in regard to a contract with a public agency or funded in whole or in part from a grant, tax abatement, or tax credit from a public agency;*
 - (c) *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. secs. 151 et seq; or*
 - (d) *Interfere with labor relations of parties that are not regulated under the National Labor Relations Act, 29 U.S.C. secs. 151, et. seq.*
- (4) *A public agency may exempt a particular project, contract in any contractor tier, grant, tax abatement, or tax credit from the requirements of any or all of the provisions of this section if the public agency finds, after public notice and hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstances under this subsection may not be based on the possibility or presence of a labor dispute concerning:*
 - (a) *The use of contractors at any contractor tier who are not signatories to, or otherwise do not adhere to, agreements with one (1) or more labor organizations; or*
 - (b) *Employees on the project who are not members of, or affiliated with, a labor organization.*

Signed by Governor March 21, 2019.