

1 AN ACT relating to contracting of public works projects.

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

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

5 *(1) "Public agency" as used in Sections 2 and 3 of this Act has the same meaning as*
6 *in KRS 61.870.*

7 *(2) "Public works" as used in Sections 2 and 3 of this Act means all buildings, roads,*
8 *streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other*
9 *structures or work, including "adult correctional facilities" as defined in KRS*
10 *197.500, constructed under contract with any public agency.*

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

13 *A public agency shall not impose by rule, ordinance, or any other action relating to*
14 *contracts for public works projects for which competitive bids are required any*
15 *requirement that directly or indirectly restricts potential bidders to any predetermined*
16 *class of bidders defined by experience on similar projects, size of company, union*
17 *membership, or any other criteria.*

18 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) A public agency awarding a contract for a public works project shall not in the*
21 *bid specifications, project agreements, or other contract documents:*

22 *(a) Require a bidder, offeror, or contractor in any contractor tier to enter into*
23 *or adhere to an agreement with a labor organization relating to the public*
24 *works contract or any other public works project.*

25 *(b) Prohibit a bidder, offeror, or contractor in any contractor tier from entering*
26 *into or adhering to an agreement with a labor organization relating to the*
27 *public works project or any other public works project.*

1 (c) Discriminate against a bidder, offeror, or contractor in any contractor tier
2 for any of the following:

3 1. Becoming or remaining a signatory to an agreement with a labor
4 organization relating to the public works project or any other public
5 works project;

6 2. Refusing to become or remain a signatory to an agreement with a
7 labor organization relating to the public works project or any other
8 public works project; or

9 3. Adhering to or refusing to adhere to an agreement with a labor
10 organization relating to the public works project or any other public
11 works project.

12 (2) A public agency shall not award a grant, tax abatement, or tax credit that is
13 conditioned upon a requirement that a person awarded the grant, tax abatement,
14 or tax credit include a term described in subsection (1) of this section in a
15 contract document for any public works project that is the subject of the grant,
16 tax abatement, or tax credit.

17 (3) This section does not do any of the following:

18 (a) Prohibit a public agency from awarding a contract, grant, tax abatement, or
19 tax credit to a private owner, bidder, or contractor in any contractor tier
20 who is party to an agreement with a labor organization if:

21 1. Being or becoming a party or adhering to an agreement with a labor
22 organization is not a condition for award of the contract, grant, tax
23 abatement, or tax credit; and

24 2. The public agency does not discriminate against a private owner,
25 bidder, or contractor in awarding of the contract grant, tax abatement,
26 or tax credit based upon that status of the private owner, bidder, or
27 contractor as being or becoming, or the willingness or refusal to

- 1 become, a party to an agreement with a labor organization.
- 2 **(b) Prohibit a contractor in any contractor tier from voluntarily entering into or**
- 3 complying with an agreement entered into with a labor agreement in regard
- 4 to a contract with a public agency or funded in whole or in part from a
- 5 grant, tax abatement, or tax credit from a public agency.
- 6 **(c) Prohibit employers or other parties from entering into agreements or**
- 7 engaging in any other activity protected by the National Labor Relations
- 8 Act, 29 U.S.C. sec. 151 et seq.
- 9 **(d) Interfere with labor relations of parties that are not regulated under the**
- 10 National Labor Relations Act, 29 U.S.C. sec. 151 et seq.
- 11 **(4) A public agency may exempt a particular project, contract in any contractor tier,**
- 12 grant, tax abatement, or tax credit from the requirements of any or all of the
- 13 provisions of this section if the public agency finds, after public notice and
- 14 hearing, that special circumstances require an exemption to avert an imminent
- 15 threat to public health or safety. A finding of special circumstances under this
- 16 subsection may not be based on the possibility or presence of a labor dispute
- 17 concerning:
- 18 **(a) The use of contractors at any contractor tier who are not signatories to, or**
- 19 otherwise do not adhere to, agreements with one (1) or more labor
- 20 organizations; or
- 21 **(b) Employees on the project who are not members of, or affiliated with, a labor**
- 22 organization.