

Senate Commerce Committee

Aaron Jones 271-2609

SB 88-FN, prohibiting state government entities from including specified terms related to labor organization agreements in construction related contracts and grants.

Hearing Date: February 11, 2025

Time Opened: 9:32 a.m.

Time Closed: 9:51 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill prohibits state entities from including specified terms related to labor organization agreements in construction related contracts and grants.

Sponsors:
Sen. Birdsell

Who supports the bill: Senator Regina Birdsell, Joshua Reap (ABC NH), Daryl Luter (Fulcrum Associates), Michael Guillemette (Rose Steel), Mike Bennett (CIANBRO), Alex Koutroubas (Associated General Contractors), John Reynolds (NFIB-NH), Cindy Kudlik, Daniel Richardson, Taylor Woodward (DEW), Kelli D'Amore, Doug Cullen, Ron Ciotti, Preston Hunter, John McGrath, Greg Moore (Americans for Prosperity), Thomas Hall, Kyle Reagan

Who opposes the bill: 83 individuals were in opposition. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Regina Birdsell

- This bill would protect construction businesses in New Hampshire from federal mandates that cost taxpayers' money.
- State construction projects often require a bidder to have a labor agreement to bid for a project, which eliminates 90 percent of the construction labor force.
- When they are mandated by the government, project labor agreements (PLAs) increase the cost of construction up to 20 percent.

- This bill would be applicable to state government or state funded projects, not municipalities.
- Senator Birdsell said taxpayers benefit when agreements are privately negotiated between contractors and laborers.
- This bill would not prevent contractors from privately entering PLAs.
- Government mandated PLAs invalidate privately negotiated union labor contract agreements, and they are replaced with set terms and conditions from the government.
- Funds from the American Recovery Act and the Inflation Reduction Act contained language that implied that PLAs were required resulting in grant applications mandating them.
- The requirement of PLAs for every public project in Massachusetts has caused an exodus of businesses and residents to New Hampshire.
- Senator Birdsell said this bill would protect the merit shop workforce, while also sending a strong message that the state is open for business.

Joshua Reap, CEO and President, Associated Builders and Contractors New Hampshire

- This bill would ensure state public works contracts are fair and open to competition.
- When PLAs are imposed by the government, non-union merit shop contractors are often disadvantaged or excluded from the negotiating process.
- According to a study from Dr. John McGowan, merit shop contractors on PLA jobs could lose 34 percent of their take-home pay.
- By limiting the mandatory use of PLAs, Mr. Reap said it would level the playing field.
- This bill would not prohibit a union contractor from using a privately negotiated PLA with a union workforce. Instead, this bill would ensure that the government does not get in the middle.
- Since taxpayers are impacted, there is a desire to have the most qualified, professional, and efficient workforce at the most competitive price.
- Both Massachusetts and New York have mandated PLAs on public works projects. In those states, the increased cost of construction has not been just labor driven.
- **Senator Reardon** asked how a PLA would work when they are required to pay Davis-Bacon wages.
 - **Mr. Reap** said union hall negotiated rates are paid at or above Davis-Bacon rates. Davis-Bacon rates are determined by the federal government. If they do not receive enough market surveys, the rates are defaulted to union collective bargaining agreements. It would be difficult to find any contractor that does not pay at or above the prevailing wage rates.

Daryl Luter, President, Fulcrum Associates

- In 2025, they have committed \$80,000 to training, safety, leadership, and professional development.
- Mandating PLAs would have a detrimental impact on their merit-based approach, and it would increase the cost of construction. In the existing economic climate, Mr. Luter said communities could not have their police, fire, or emergency services limited by increased costs.
- Mr. Luter said they are committed to the free and open principles of a merit-based approach to construction, while also elevating their standards to create a robust, highly skilled, and safety conscious workforce.

Michael Guillemette, Operations Manager, Rose Steel

- At their business, they provide good paying jobs, full benefits, training, and safety.
- Mr. Guillemette believed merit-based companies should be given equal opportunity to do public works projects. Taxpayers pay for these jobs, yet merit job workers are not allowed to bid on them.
- For every \$1 spent on construction, \$1.5 is reinvested into the community.
- Since out-of-state companies are doing public works projects, money is being directed out-of-state.

Alex Koutroubas, Associated General Contractors of New Hampshire

- This bill would codify existing procurement practices as PLAs are not required for state construction projects.
- They are opposed to government mandated PLAs because they believe the most qualified construction firms should be awarded state contracts.
- Mr. Koutroubas said state agencies should not require government mandated PLAs because they would change the labor policies or practices of firms who are competing for publicly funded construction projects.
- PLAs remove the underlying economic forces of competitive bidding laws and the collective bargaining process. Also, Mr. Koutroubas said they make it nearly impossible for the public to benefit from full competition.
- In 2022, the Senate passed similar legislation from Senator Jeb Bradley.

Summary of testimony presented in opposition:

Alan Raff, New Hampshire AFL-CIO

- Mr. Raff read testimony from the President of the New Hampshire AFL-CIO, Glenn Brackett.
 - This bill would deny state agencies the ability to use PLAs.

- PLAs are a market-based efficiency tool used to ensure projects are completed on time and on budget. They help to create jobs that provide sustainable wages, training, and safe working conditions.
- In New Hampshire, there has never been a state funded PLA.
- This bill would tie the hands of state and government entities despite PLAs benefitting everyone on a construction site, including developers, contractors, workers, and taxpayers.
- For public works projects, all contractors are invited to submit bids, including non-union contractors. The winning bidder must demonstrate cost savings, which does not include paying workers less.
- This bill would not foster competition; instead, Mr. Brackett said it would favor contractors that pay workers less. In addition, there would be no guarantee that New Hampshire workers would be employed on state funded projects.
- Some may choose not to bid under PLAs, but there have been many projects completed with them, including the Boston Harbor, the Port of Oakland, and the Southern Nevada Water Authority's Improvement Project.
- Mr. Brackett stated that New Hampshire has never had a state funded PLA, and it would add government red tape and regulation onto the industry.
- If this bill were passed, it would only benefit one group of contractors.

Neutral Information Presented: None

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Date Hearing Report completed: February 14, 2025