

SB 55 - AS INTRODUCED

2021 SESSION

21-0888

04/05

SENATE BILL **55**

AN ACT relative to project labor agreements in government contracts.

SPONSORS: Sen. Avar, Dist 12; Sen. Daniels, Dist 11; Sen. Bradley, Dist 3; Rep. Burt, Hills. 39; Rep. Ammon, Hills. 40; Rep. Lang, Belk. 4

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill provides that the government shall not require or prohibit participation in a project labor agreement as a condition of participating in a government construction project. This bill does not prevent a bidder, contractor, or subcontractor from working on government construction based on their labor affiliation or lack thereof.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to project labor agreements in government contracts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Findings. The general court finds that open competition in governmental construction
2 contracts is necessary to promote and ensure fair competition in the award and execution of such
3 contracts. Therefore, to prevent discrimination against governmental bidders, offerors, contractors,
4 or subcontractors based upon labor affiliation or the lack thereof, the general court declares that
5 neither the state nor municipalities nor projects receiving tax abatements or tax credits, should
6 include project labor agreements as part of the competitive bid process or the award of government
7 construction contracts or government assisted construction projects.

8 2 New Subdivision; Department of Administrative Services; Project Labor Agreements in
9 Government-Assisted Construction Contracts. Amend RSA 21-I by inserting after section 86 the
10 following new subdivision:

11 Project Labor Agreements in Government-Assisted Construction Contracts

12 21-I:86-a Definitions. In this subdivision:

13 I. "Construction" means the act, trade, or process of building, erecting, constructing, adding,
14 repairing, remodeling, rehabilitating, reconstructing, altering, converting, improving, expanding, or
15 demolishing of a building, structure, facility, road, or highway, and includes the planning, designing,
16 and financing of a specific construction project.

17 II. "Governmental entity" means the state, a political subdivision, or any agency or spending
18 unit thereof.

19 III. "Government-assisted" means any project that receives a tax exemption, tax abatement
20 or tax credit under RSA 72:80-83, RSA 79-E, or RSA 162-N.

21 IV. "Project labor agreement" means any pre-hire collective bargaining agreement with one
22 or more labor organizations that establishes the terms and conditions of employment for a specific
23 construction project.

24 21-I:86-b Project Labor Agreements in Government-Assisted Contracts.

25 I. No government-assisted project, governmental entity or a construction manager acting on
26 behalf of a governmental entity by seeking a construction bid solicitation, awarding a construction
27 contract, or obligating funds to a construction contract, shall include any of the following in the bid
28 specifications, bid requests, project agreements, or any other controlling documents for the
29 construction project:

30 (a) A requirement or prohibition that a bidder, offeror, contractor, or subcontractor enter
31 into or adhere to a project labor agreement.

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1 (b) A term, clause, or statement that infers, either directly or indirectly, that a bidder,
2 offeror, contractor, or subcontractor is required to enter into or adhere to a project labor agreement.

3 (c) A term, clause, or statement that rewards or punishes a bidder, offeror, contractor, or
4 subcontractor for becoming or remaining, or refusing to become or remain a signatory to, or for
5 adhering or refusing to adhere to, a project labor agreement.

6 (d) Any other provision dealing with project labor agreements.

7 II. This section shall not:

8 (a) Prohibit a governmental entity from awarding grants, tax credits to an applicant, or
9 contract to a bidder, contractor, or subcontractor who enters into or who is party to an agreement
10 with a labor organization, if being or becoming a party or adhering to an agreement with a labor
11 organization is not a condition for award of the contract and if the governmental entity does not
12 discriminate against a bidder, contractor, or subcontractor in the awarding of that contract based
13 upon the status as being or becoming, or the willingness or refusal to become, a party to an
14 agreement with a labor organization.

15 (b) Prohibit a bidder, contractor, or subcontractor from voluntarily entering into or
16 complying with an agreement entered into with one or more labor organizations in regard to a
17 contract with a governmental entity.

18 (c) Prohibit employers or other parties from entering into agreements or engaging in any
19 other activity protected by the National Labor Relations Act, 29 U.S.C. sections 151 to 169.

20 (d) Interfere with labor relations of parties that are left unregulated under the National
21 Labor Relations Act, 29 U.S.C. sections 151 to 169.

22 (e) Prohibit a governmental agency from including other wage and benefit requirements
23 as part of the bid specifications, project agreement, or other controlling documents for the
24 construction project.

25 21-I:86-c Exemptions. The head of a governmental entity may exempt a particular project,
26 contract, or subcontract from any requirement of this subdivision if the governmental unit finds,
27 after public notice and a hearing, that special circumstances require an exemption to avoid an
28 imminent threat to public health or safety. A finding of special circumstances under this section
29 shall not be based on the possibility or presence of a labor dispute concerning the use of contractors
30 or subcontractors who are non-signatories to, or otherwise do not adhere to, agreements with one or
31 more labor organizations or concerning employees on the project who are not members of or affiliated
32 with a labor organization.

33 3 Effective Date. This act shall take effect 30 days after its passage.