

HCS HB 369 -- FAIRNESS IN PUBLIC CONSTRUCTION ACT

SPONSOR: Hunter (Fisher)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Workforce Development and Workplace Safety by a vote of 9 to 3.

This substitute establishes the Fairness in Public Construction Act to fulfill the state's proprietary objectives by maintaining and promoting economical, nondiscriminatory, and efficient expenditures of public funds in connection with publicly funded or assisted construction projects.

Public entities cannot impose certain labor requirements as conditions for performing public works projects if the construction project is more than 50% funded with state moneys. Public entities contracting for public works projects must ensure that their agreements do not bind the other parties to an agreement with a labor organization and cannot discriminate against other parties who refuse to adhere to agreements with labor organizations on the same or related projects. Public entities will not require other parties to enforce any agreement that requires its employees to become a member, pay dues, or pay fees to a labor organization in excess of costs already paid. Any interested party has standing to challenge agreements that violate these provisions.

The substitute specifies conditions upon which the state or a political subdivision may enter into a union-only project labor agreement. The intent to enter into a union-only project labor agreement will be published in a document titled "Intent to Enter Into a Project Labor Agreement." A public hearing must be conducted by the state or political subdivision on whether to require a union-only project labor agreement. A finding is appealable to the Labor and Industrial Relations Commission, and any aggrieved party from the commission's decision may appeal to the circuit court of Cole County. If the commission determines that a complaint is frivolous or exhibits a pattern of harassment on the part of the filing party, the commission may disallow the party from filing further complaints for up to one year.

An employer is prohibited from directly or indirectly receiving from another project any wage subsidies, bid supplements, or rebates from any employee or labor organization for a construction project or from any third party to subsidize labor costs on the public works construction project. An employer lawfully receiving a wage subsidy, bid supplement, or rebate payment must report the payment amount, within 30 days of receipt, to the contracting public entity. This provision, if in conflict with the federal National Labor Relations Act, will not

be enforced. Any contractor or subcontractor who violates these provisions will be required to pay the public body twice the amount of the subsidy received.

The amount an employer will be penalized for paying a workman less than the stipulated wage rate is increased from \$10 per employee per day to \$100 per employee per day. The Department of Labor and Industrial Relations is required to investigate any violation of the prevailing wage law and notify the offending employer of its findings. The employer can pay the penalty within 45 days of the notice or seek arbitration. The department will enforce monetary penalties and recover the actual costs of enforcement.

The remedies specified in the substitute do not preclude an employee's right to pursue an individual action against an employer.

FISCAL NOTE: No impact on state funds in FY 2008, FY 2009, and FY 2010.

PROPONENTS: Supporters say that the bill will aid public entities in the more efficient use of tax dollars and ensures fair and open bidding on public works projects. The bill is a compromise agreed upon by the stake holders.

Testifying for the bill were Representative Fisher; Associated Industries of Missouri; Associated Builders and Contractors, Heart of America Chapter; Greg Hoberock, HIH Companies; Missouri AFL-CIO; St. Louis Building and Construction Trades Council; United Association of Pipefitter's Union #513; Iron Workers Local #396; Sheet Metal Workers International Association, AFL-CIO, Local #36; National Federation of Independent Business; Independent Electrical Contractors Association of Greater St. Louis; Terry Schlemeier, St. Louis Area Contractors; and Fred Weber, Incorporated.

OPPONENTS: There was no opposition voiced to the committee.