

SCS SB 339 -- FAIRNESS IN PUBLIC CONSTRUCTION ACT

This bill 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 a condition 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 cannot 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 an agreement that violates these provisions.

The bill 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 Union 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 a 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 its receipt, to the contracting public entity. This provision, if in conflict with the 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 worker 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 bill do not prevent an employee from pursuing an individual action against an employer.