

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 611*

Short Title: Public Contracts/Project Labor. (Public)

Sponsors: Senators Brown (Primary Sponsor); and Meredith.

Referred to: Commerce.

April 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR FAIR AND OPEN COMPETITION IN GOVERNMENTAL
3 CONSTRUCTION CONTRACTS AND TO PROHIBIT REQUIREMENTS FOR
4 CERTAIN TERMS IN GOVERNMENT CONTRACTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by
7 adding a new section to read as follows:

8 "**§ 143-133.1. Public contracts; labor organizations.**

9 (a) It is the intent of the General Assembly that the provisions of this section will
10 provide for more economical, nondiscriminatory, neutral, and efficient procurement of
11 construction-related services by the State and political subdivisions of the State as market
12 participants. The General Assembly finds that providing for fair and open competition best
13 effectuates this intent.

14 (b) Any agent or employee of the State, any board or governing body of the State or of
15 any institution of the State government, or any agent, employee, or board or governing body of
16 any political subdivision of the State awarding a contract for the construction, repair,
17 remodeling, or demolition of a public building shall not in any bid specifications, project
18 agreements, or other controlling documents:

19 (1) Require or prohibit a bidder, offeror, contractor, or subcontractor from
20 entering into or adhering to an agreement with one or more labor
21 organizations in regard to that project or a related construction project.

22 (2) Otherwise discriminate against a bidder, offeror, contractor, or subcontractor
23 for becoming, remaining, refusing to become or remain a signatory to, or for
24 adhering or refusing to adhere to an agreement with one or more labor
25 organizations in regard to that project or a related construction project.

26 (c) An agent or employee of the State, any board or governing body of the State or of
27 any institution of the State government, or an agent, employee, or board or governing body of
28 any political subdivision of the State shall not award a grant, tax abatement, or tax credit that is
29 conditioned upon a requirement that the awardee include a term described in subsection (b) of
30 this section in a contract document for any construction, improvement, maintenance, or
31 renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax
32 credit.

33 (d) This section does not prohibit an agent or employee of the State, any board or
34 governing body of the State or of any institution of the State government, or an agent,
35 employee, or board or governing body of any political subdivision of the State from awarding a
36 contract, grant, tax abatement, or tax credit to a private owner, bidder, contractor, or



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1 subcontractor who enters into or who is party to an agreement with a labor organization if being
2 or becoming a party or adhering to an agreement with a labor organization is not a condition for
3 award of the contract, grant, tax abatement, or tax credit, and if the State agent, employee, or
4 board or the political subdivision does not discriminate against a private owner, bidder,
5 contractor, or subcontractor in the awarding of that contract, grant, tax abatement, or tax credit
6 based upon the person's status as being or becoming, or the willingness or refusal to become, a
7 party to an agreement with a labor organization.

8 (e) This section does not prohibit a contractor or subcontractor from voluntarily
9 entering into or complying with an agreement entered into with one or more labor organizations
10 in regard to a contract with the State or a political subdivision of the State or funded in whole
11 or in part from a grant, tax abatement, or tax credit from the State or political subdivision.

12 (f) The State or the governing body of a political subdivision may exempt a particular
13 project, contract, subcontract, grant, tax abatement, or tax credit from the requirements of any
14 or all of the provisions of subsection (b) or (c) of this section if the State or governing body of
15 the political subdivision finds, after public notice and a hearing, that special circumstances
16 require an exemption to avert an imminent threat to public health or safety. A finding of special
17 circumstances under this section shall not be based on the possibility or presence of a labor
18 dispute concerning the use of contractors or subcontractors who are nonsignatories to, or
19 otherwise do not adhere to, agreements with one or more labor organizations, or concerning
20 employees on the project who are not members of or affiliated with a labor organization.

21 (g) This section does not do either of the following:

22 (1) Prohibit employers or other parties from entering into agreements or
23 engaging in any other activity protected by the National Labor Relations
24 Act, 29 U.S.C. § 151 to 169.

25 (2) Interfere with labor relations of parties that are left unregulated under the
26 National Labor Relations Act, 29 U.S.C. § 151 to 169."

27 **SECTION 2.** This act is effective when it becomes law and applies to all contracts
28 awarded on or after that date.