

SNYDER BANS PROJECT LABOR AGREEMENTS

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Governor Rick Snyder signed Senate Bill 165 entitled the Fair and Open Competition in Governmental Construction Act on July 19, 2011. The Act ends any requirement of governmental entities to enter into Project Labor Agreement (PLA) that only allows union-only bids. Michigan became the 11th state to ban the PLA.

A PLA requires contractors to agree to the terms of a collective bargaining agreement as a condition to performing construction work for government agencies. Before signing this Act, government construction projects were required to be performed under a PLA. Any non-union construction company would therefore have to pay for their employees' wages and also pay into union benefit funds under the PLA. This acted as a mechanism to deter any non-union construction companies from bidding on public works projects. Unionized construction companies already met the requirements of the PLA and could therefore bid freely on the projects while the non-union construction companies were left with the prospect of paying more. Consequently, the non-union companies did not bid on many projects because their costs would be higher in relation to the unionized companies.

The new Act outlaws the union-only PLA, thereby opening up the bidding process. Specifically, the law states:

A governmental unit shall not enter into or expend funds under a contract...if the contract... contains any of the following:

- (a) A term that requires, prohibits, encourages, or discourages...contractors...from entering into or adhering to agreements with a collective bargaining organization relating to the construction project or other related construction projects.
- (b) A term that discriminates against bidders, contractors, or subcontractors based on the status as a party or nonparty to, or the willingness or refusal to enter into, an agreement with a collective bargaining organization relating to the construction project or other related construction projects.

The Act does not abolish or amend the Prevailing Wage statute and requirements in connection with public jobs. It simply does away with a PLA as a means of complying with prevailing wage requirements. The new law allows non-union construction companies to feasibly bid for government works projects. They do not have to pay into union benefit funds because a PLA is no longer necessary. Banning the PLA for government works projects is considered anti-union, but is also thought to be to save on government spending.

It is suggested that taxpayers will save money because of increased competition. An estimated 80% of construction companies are non-union in Michigan. Although the fiscal studies done on the bill were inconclusive as to savings, adding up to 80% of Michigan construction companies to the bidding process to public work projects is likely to increase competition enough to reduce the overall cost of projects.

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