**South Carolina General Assembly**

120th Session, 2013-2014

**A46, R54, S438**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin and Campbell

Document Path: l:\council\bills\dka\3089sd13.docx

Companion/Similar bill(s): 3639

Introduced in the Senate on February 27, 2013

Introduced in the House on April 11, 2013

Passed by the General Assembly on May 22, 2013

Governor's Action: June 7, 2013, Signed

Summary: Governmental contracts

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/27/2013 Senate Introduced and read first time ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\02-27-13.docx))

2/27/2013 Senate Referred to Committee on **Finance** ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\02-27-13.docx))

3/21/2013 Senate Committee report: Favorable **Finance** ([Senate Journal‑page 20](file:///h:\SJ%20Archive\2013\03-21-13.docx))

4/9/2013 Senate Read second time ([Senate Journal‑page 39](file:///h:\SJ%20Archive\2013\04-09-13.docx))

4/9/2013 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 39](file:///h:\SJ%20Archive\2013\04-09-13.docx))

4/10/2013 Senate Read third time and sent to House ([Senate Journal‑page 32](file:///h:\SJ%20Archive\2013\04-10-13.docx))

4/11/2013 House Introduced and read first time ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\04-11-13.docx))

4/11/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\04-11-13.docx))

5/16/2013 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h:\HJ%20Archive\2013\05-16-13.docx))

5/21/2013 House Read second time ([House Journal‑page 42](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/21/2013 House Roll call Yeas‑112 Nays‑0 ([House Journal‑page 42](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/22/2013 House Read third time and enrolled ([House Journal‑page 20](file:///h:\HJ%20Archive\2013\05-22-13.docx))

6/4/2013 Ratified R 54

6/7/2013 Signed By Governor

6/18/2013 Effective date 06/07/13

6/18/2013 Act No. 46

**VERSIONS OF THIS BILL**

[2/27/2013](file:///p:\pprever\2013-14\438_20130227.docx)

[3/21/2013](file:///p:\pprever\2013-14\438_20130321.docx)

[5/16/2013](file:///p:\pprever\2013-14\438_20130516.docx)

(A46, R54, S438)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑15‑70 SO AS TO PROVIDE FOR THE FAIR AND OPEN COMPETITION IN GOVERNMENTAL CONTRACTS BY STIPULATING THAT STATE OR LOCAL ENTITIES, OFFICIALS, AND EMPLOYEES, IN REGARD TO A PUBLIC BUILDING, MAY NOT REQUIRE OR PROHIBIT A BIDDER, OFFEROR, CONTRACTOR, OR SUBCONTRACTOR FROM ENTERING INTO OR ADHERING TO AN AGREEMENT WITH ONE OR MORE LABOR ORGANIZATIONS IN REGARD TO THE PROJECT AND MAY NOT OTHERWISE DISCRIMINATE AGAINST A BIDDER, OFFEROR, CONTRACTOR, OR SUBCONTRACTOR FOR BECOMING OR REFUSING TO BECOME A SIGNATORY TO AN AGREEMENT WITH ONE OR MORE LABOR ORGANIZATIONS IN REGARD TO THE PROJECT, TO PROVIDE THAT STATE AND LOCAL ENTITIES, OFFICIALS, AND EMPLOYEES SHALL NOT AWARD A GRANT, TAX ABATEMENT, OR TAX CREDIT CONDITIONED UPON THE INCLUSION OF SUCH AGREEMENTS IN THE AWARD, AND TO PROVIDE EXCEPTIONS TO AND EXEMPTIONS FROM THESE PROVISIONS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Governmental contractual requirements, public grant or award requirements**

SECTION 1. Chapter 15, Title 8 of the 1976 Code is amended by adding:

“Section 8‑15‑70. (A) It is the intent of the General Assembly that the provisions of this section provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction‑related services by this State and political subdivisions of this State as market participants. The General Assembly finds that providing for fair and open competition best effectuates this intent.

(B) An agent or employee of this State, a board or governing body of this State, or of any institution of state government, or any agent, employee, or board or governing body of any political subdivision of this State awarding a contract for the construction, repair, remodeling, or demolition of a public building shall not in any bid specifications, project agreements, or other controlling documents:

(1) require or prohibit a bidder, offeror, contractor, or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to that project or a related construction project; and

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

(C) An agent or employee of this State, a board or governing body of this State, or of any institution of state government, or an agent, employee, or board or governing body of any political subdivision of this State shall not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the person receiving the grant, tax abatement, or tax credit include a term described in subsection (B) in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax credit.

(D) This section does not prohibit an agent or employee of this State, a board or governing body of this State, or of any institution of state government, or an agent, employee, or board or governing body of any political subdivision of this State from awarding a contract, grant, tax abatement, or tax credit to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, tax abatement, or tax credit, and if the state agent, employee, or board or the political subdivision does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, tax abatement, or tax credit based upon the person’s status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.

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

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

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

(1) prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. Sections 151‑169; or

(2) interfere with labor relations of parties that are left unregulated under the National Labor Relations Act, 29 U.S.C. Sections 151‑169.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4th day of June, 2013.

Approved the 7th day of June, 2013.

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