

BILL ANALYSIS

Senate Research Center
86R4243 MCK-F

H.B. 985
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A Project Labor Agreement (PLA) is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project.

PLAs are increasingly being used across the nation as a means of forcing governmental entities to award contracts to unionized companies. When allocating state resources for approved state-funded projects, there should not be preferences for unionized labor or non-unionized labor. Such preferences place the state in a position of picking winners and losers in decisions not based upon the most efficient cost or the most competent labor in the execution of government contracts.

If a unionized company can perform the work for the best value, then they should win the bid. The same holds true for non-unionized companies. H.B. 985 ensures that everyone can compete on the open market regardless of their group affiliation.

This bill would add language to both the Education Code and the Government Code providing that contract work funded with state money, including the issuance of debt guaranteed by the state, may not:

1. prohibit, require, discourage, or encourage a person bidding on the public work contract—including a contractor or subcontractor—from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or
2. discriminate against a person described by Subdivision (1) above based on that person's involvement in the agreement, including the person's status or lack of status as a party to the agreement, or his or her willingness or refusal to enter into the agreement.

H.B. 985 specifies that the language may not be construed to prohibit activity protected by the National Labor Relations Act.

H.B. 985 amends current law relating to the effect of certain agreements with a collective bargaining organization on certain state-funded public work contracts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter T, Chapter 51, Education Code, by adding Section 51.7761, as follows:

- Sec. 51.7761. AGREEMENT WITH COLLECTIVE BARGAINING ORGANIZATION.
(a) Defines "public work contract" for purposes of this section.

(b) Prohibits an institution awarding a public work contract funded with state money, including the issuance of debt guaranteed by this state, from:

(1) prohibiting, requiring, discouraging, or encouraging a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or

(2) discriminating against a person described by Subdivision (1) based on the person's involvement in the agreement, including the person's:

(A) status or lack of status as a party to the agreement; or

(B) willingness or refusal to enter into the agreement.

(c) Prohibits this section from being construed to:

(1) prohibit activity protected by the National Labor Relations Act (29 U.S.C. Section 151 et seq.), including entering into an agreement with a collective bargaining organization relating to the project; or

(2) permit conduct prohibited under the National Labor Relations Act (29 U.S.C. Section 151 et seq.).

SECTION 2. Amends Subchapter B, Chapter 2269, Government Code, by adding Section 2269.0541, as follows:

Sec. 2269.0541. AGREEMENT WITH COLLECTIVE BARGAINING ORGANIZATION. (a) Prohibits a governmental entity awarding a public work contract funded with state money, including the issuance of debt guaranteed by this state, from:

(1) prohibiting, requiring, discouraging, or encouraging a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or

(2) discriminating against a person described by Subdivision (1) based on the person's involvement in the agreement, including the person's:

(A) status or lack of status as a party to the agreement; or

(B) willingness or refusal to enter into the agreement.

(b) Prohibits this section from being construed to:

(1) prohibit activity protected by the National Labor Relations Act (29 U.S.C. Section 151 et seq.), including entering into an agreement with a collective bargaining organization relating to the project; or

(2) permit conduct prohibited under the National Labor Relations Act (29 U.S.C. Section 151 et seq.).

SECTION 3. Makes application of Section 51.7761, Education Code, and Section 2269.0541, Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2019.