

REFERENCE TITLE: prohibited agreements; public works contracts

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2694

Introduced by
Representatives Aguilar: Austin, Bravo, Quiñonez

AN ACT

AMENDING SECTIONS 34-321 AND 40-360.06, ARIZONA REVISED STATUTES; RELATING
TO PUBLIC WORKS CONTRACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-321, Arizona Revised Statutes, is amended to
3 read:

4 34-321. Public policy; public works contracts; prohibitions;
5 definitions

6 A. The public interest in the rates of wages paid under public
7 works contracts transcends local or municipal interests and is of
8 statewide concern.

9 B. Agencies and political subdivisions of this state shall not
10 REQUIRE, by regulation, ~~OR~~ ordinance or in any other manner, require
11 public works contracts to contain a provision requiring the wages paid by
12 the contractor or any subcontractor to be not less than the prevailing
13 rate of wages for work of a similar nature in the state or political
14 subdivision where the project is located.

15 C. Agencies and political subdivisions of this state shall not
16 require in any public works contracts that a contractor, subcontractor,
17 material supplier or carrier engaged in the construction, maintenance,
18 repair or improvement of public works ~~do any of the following~~ ENTER INTO A
19 NEUTRALITY AGREEMENT WITH ANY SERVICE PROVIDER as a condition of or a
20 factor in bidding, negotiating, being awarded or performing work on a
21 public works contract. ~~;~~

22 ~~1. Negotiate, execute or otherwise become a party to any project~~
23 ~~labor agreement or other agreement with employees, employees'~~
24 ~~representatives or any labor organization.~~

25 ~~2. Enter into a neutrality agreement with any labor organization.~~

26 ~~3. Participate in or contribute to an apprenticeship program that~~
27 ~~is registered with the United States department of labor.~~

28 D. Subsection C of this section does not:

29 1. Prohibit private parties from entering into individual
30 collective bargaining relationships.

31 2. Regulate or interfere with activity protected by law, including
32 the national labor relations act.

33 E. For the purposes of this section:

34 1. "Agency" has the same meaning prescribed in section 41-1001.

35 2. "Neutrality agreement" includes an agreement to remain neutral
36 toward any labor organization, release private employee information not
37 required by federal labor law, allow access to property beyond what is
38 required by federal labor law and recognize a labor organization without a
39 secret ballot election conducted pursuant to federal labor law.

40 3. "Political subdivision" means a city, charter city, town,
41 county, school district, community college district, multi-county water
42 conservation district, industrial development authority or special taxing
43 district established pursuant to title 48 that is primarily supported by
44 taxes.

1 ~~4. "Project labor agreement" means any prehire, collective~~
2 ~~bargaining, model construction or similar type of agreement entered into~~
3 ~~with one or more labor organizations, employees or employee~~
4 ~~representatives that establishes the terms and conditions of employment on~~
5 ~~a construction project.~~

6 ~~5.~~ 4. "Public works contract" means a contract to which this state
7 or a political subdivision is a party ~~involving~~ AND THAT INVOLVES the
8 employment of laborers, workmen or mechanics in the construction,
9 alteration or repair of public buildings or improvements.

10 Sec. 2. Section 40-360.06, Arizona Revised Statutes, is amended to
11 read:

12 40-360.06. Factors to be considered in issuing a certificate
13 of environmental compatibility

14 A. The committee may approve or deny an application and may impose
15 reasonable conditions on the issuance of a certificate of environmental
16 compatibility. ~~and~~ In so doing, THE COMMITTEE shall consider the
17 following factors as a basis for its action with respect to the
18 suitability of either plant or transmission line siting plans:

19 1. Existing plans of this state, A local government and private
20 entities for other developments at or in the vicinity of the proposed
21 site.

22 2. Fish, wildlife and plant life and associated forms of life on
23 which they are dependent.

24 3. Noise emission levels and interference with communication
25 signals.

26 4. The proposed availability of the site to the public for
27 recreational purposes, consistent with safety considerations and
28 regulations.

29 5. Existing scenic areas, historic sites and structures or
30 archaeological sites at or in the vicinity of the proposed site.

31 6. The total environment of the area.

32 7. The technical practicability of achieving a proposed objective
33 and the previous experience with equipment and methods available for
34 achieving a proposed objective.

35 8. The estimated cost of the facilities and site as proposed by the
36 applicant and the estimated cost of the facilities and site as recommended
37 by the committee, recognizing that any significant increase in costs
38 represents a potential increase in the cost of electric energy to the
39 customers or the applicant.

40 9. Any additional factors that require consideration under
41 applicable federal and state laws pertaining to any such site.

42 B. The committee shall give special consideration to the protection
43 of areas THAT ARE unique because of biological wealth or because they are
44 habitats for rare and endangered species.

1 C. Notwithstanding any other provision of this article, the
2 committee shall require in all certificates OF ENVIRONMENTAL COMPATIBILITY
3 for facilities that the applicant comply with all applicable nuclear
4 radiation standards and air and water pollution control standards and
5 regulations, but shall not require either of the following:

6 1. Compliance with performance standards other than those
7 established by the agency having primary jurisdiction over a particular
8 pollution source.

9 2. That a contractor, subcontractor, material supplier or other
10 person THAT IS engaged in the construction, maintenance, repair or
11 improvement of any project subject to approval of the commission
12 negotiate, execute or otherwise become a party to any ~~project labor~~
13 ~~agreement,~~ neutrality agreement as defined in section 34-321,
14 ~~apprenticeship program participation or~~ contribution agreement or other
15 agreement with employees, employees' representatives or any labor
16 organization as a condition of or a factor in the commission's approval of
17 the project. This paragraph does not:

18 (a) Prohibit private parties from entering into individual
19 collective bargaining relationships.

20 (b) Regulate or interfere with activity THAT IS protected by law,
21 including the national labor relations act.

22 D. Any certificate OF ENVIRONMENTAL COMPATIBILITY THAT IS granted
23 by the committee shall be conditioned on compliance by the applicant with
24 all applicable ordinances, master plans and regulations of ~~the~~ THIS state,
25 a county or an incorporated city or town, except that the committee may
26 grant a certificate OF ENVIRONMENTAL COMPATIBILITY notwithstanding any
27 such ordinance, master plan or regulation, exclusive of franchises, if the
28 committee finds as a fact that compliance with such AN ordinance, master
29 plan or regulation is unreasonably restrictive and compliance therewith is
30 not feasible in view of technology available. ~~When~~ IF it becomes apparent
31 to the chairman of the committee or to the hearing officer that an issue
32 exists with respect to whether such an ordinance, master plan or
33 regulation is unreasonably restrictive and compliance therewith is not
34 feasible in view of technology available, the chairman or hearing officer
35 shall promptly serve notice of ~~such~~ THAT fact by certified mail on the
36 chief executive officer of the area of jurisdiction affected and,
37 notwithstanding any provision of this article to the contrary, shall make
38 ~~such~~ THAT area of jurisdiction a party to the proceedings on its request
39 and shall give it an opportunity to respond on ~~such~~ THAT issue.