

AN ACT

To enact sections 4116.01, 4116.02, 4116.03, and 4116.04 of the Revised Code to prohibit public authorities from imposing certain labor requirements as a condition of performing public works.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4116.01, 4116.02, 4116.03, and 4116.04 of the Revised Code be enacted to read as follows:

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, or any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. "Public authority" shall not mean any municipal corporation that has adopted a charter under sections three and seven of article XVIII of the Ohio constitution, unless the specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

(B) "Construction" means all of the following:

(1) Any new construction of any public improvement performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority;

(3) Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies.

(C) "Public improvement" means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and other structures or works constructed by a public authority or by any person who, pursuant to a

contract with a public authority, constructs any structure or work for a public authority. When a public authority rents or leases a newly constructed structure within six months after completion of its construction, all work performed on that structure to suit it for occupancy by a public authority is a "public improvement."

(D) "Interested party," with respect to a particular public improvement, means all of the following:

(1) Any person who submits a bid for the purpose of securing the award of a contract for the public improvement;

(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section;

(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section;

(4) Any employee of a person mentioned in division (D)(1), (2), or (3) of this section;

(5) Any individual who is a resident of the jurisdiction of the public authority for whom products or services for a public improvement are being procured or for whom work on a public improvement is being performed.

Sec. 4116.02. A public authority, when engaged in procuring products or services, awarding contracts, or overseeing procurement or construction for public improvements, shall ensure that bid specifications issued by the public authority for the proposed public improvement, and any subsequent contract or other agreement for the public improvement to which the public authority and a contractor or subcontractor are direct parties, do not require a contractor or subcontractor to do any of the following:

(A) Enter into agreements with any labor organization on the public improvement;

(B) Enter into any agreement that requires the employees of that contractor or subcontractor to do either of the following as a condition of employment or continued employment:

(1) Become members of or affiliated with a labor organization;

(2) Pay dues or fees to a labor organization.

Sec. 4116.03. No public authority shall do any of the following:

(A) Award a contract for a public improvement in violation of section 4116.02 of the Revised Code;

(B) Discriminate against any bidder, contractor, or subcontractor for refusing to become a party to any agreement with any labor organization on the public improvement that currently is under bid or on projects related to that improvement;

(C) Otherwise violate section 4116.02 of the Revised Code.

Sec. 4116.04. (A) An interested party may file a complaint against a contracting public authority alleging a violation of section 4116.02 or 4116.03 of the Revised Code within two years after the date on which the contract is signed for the public improvement in the court of common pleas of the county in which the public improvement is performed. The performance of the contract forms the basis of the allegation of a violation. The court in which the complaint is filed shall hear and decide the case and, upon a finding that a violation has occurred, shall void the contract and make any orders that will prevent further violations.

The Rules of Civil Procedure govern all actions under this section. Any determination of a court under this section is subject to appellate review.

(B) If, pursuant to this section, a court finds a violation of section 4116.02 or 4116.03 of the Revised Code, the court may award reasonable attorney's fees, court costs, and any other fees incurred in the course of the civil action to the prevailing plaintiff.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Am. H. B. No. 101

4

Governor.

Am. H. B. No. 101

5

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____