

As Introduced

136th General Assembly

Regular Session

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H. B. No. 512

Representatives Claggett, Workman

To amend sections 4116.01, 4116.02, 4116.03, and 1
4116.04; to enact sections 4116.021, 4116.031, 2
and 4116.05; and to repeal section 153.83 of the 3
Revised Code to modify the law regarding project 4
labor agreements in public improvement 5
contracts. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4116.01, 4116.02, 4116.03, and 7
4116.04 be amended and sections 4116.021, 4116.031, and 4116.05 8
of the Revised Code be enacted to read as follows: 9

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of 10
the Revised Code: 11

~~(A) "Public~~ (A) (1) Except as provided in division (A) (2) 12
of this section "public authority" means any officer, board, or 13
commission of the state, ~~or~~ any political subdivision of the 14
state, or any institution supported in whole or in part by 15
~~public~~ state funds, authorized to enter into a contract for the 16
construction of a public improvement or to construct a public 17
improvement by the direct employment of labor. ~~"Public"~~ 18

(2) "Public authority" shall not mean any municipal 19
corporation or county that has adopted a charter under ~~sections~~ 20

~~three and seven of article XVIII of the Ohio Constitution, _~~ 21
~~unless the specific contract for a public improvement includes~~ 22
~~state funds appropriated for the purposes of that public~~ 23
~~improvement.~~ 24
Article X, Section 3.

(B) "Construction" means all of the following: 25

(1) Any new construction of any public improvement 26
performed by other than full-time employees who have completed 27
their probationary periods in the classified service of a public 28
authority; 29

(2) Any reconstruction, enlargement, alteration, repair, 30
remodeling, renovation, or painting of any public improvement 31
performed by other than full-time employees who have completed 32
their probationary period in the classified civil service of a 33
public authority; 34

(3) Construction on any project, facility, or project 35
facility to which section 122.80, 166.02, or 1728.07 of the 36
Revised Code applies; 37

(4) Construction on any project as defined in section 38
122.39 of the Revised Code, any project as defined in section 39
165.01 of the Revised Code, any energy resource development 40
facility as defined in section 1551.01 of the Revised Code, or 41
any project as defined in section 3706.01 of the Revised Code. 42

(C) "Public improvement" means all buildings, roads, 43
streets, alleys, sewers, ditches, sewage disposal plants, water 44
works, and other structures or works constructed by a public 45
authority or by any person who, pursuant to a contract with a 46
public authority, constructs any structure or work for a public 47
authority. When a public authority rents or leases a newly 48
constructed structure within six months after completion of its 49

construction, all work performed on that structure to suit it 50
for occupancy by a public authority is a "public improvement." 51

(D) "Interested party," with respect to a particular 52
public improvement, means all of the following: 53

(1) Any person who submits a bid for the purpose of 54
securing the award of a contract for the public improvement; 55

(2) Any person acting as a subcontractor of a person 56
mentioned in division (D) (1) of this section; 57

(3) Any association having as members any of the persons 58
mentioned in division (D) (1) or (2) of this section; 59

(4) Any employee of a person mentioned in division (D) (1), 60
(2), or (3) of this section; 61

(5) Any individual who is a resident of the jurisdiction 62
of the public authority for whom products or services for a 63
public improvement are being procured or for whom work on a 64
public improvement is being performed. 65

Sec. 4116.02. A public authority, when engaged in 66
procuring products or services, awarding contracts, or 67
overseeing procurement or construction for public improvements_ 68
undertaken by or on behalf of the public authority, shall ensure 69
that bid specifications issued by the public authority for the 70
proposed public improvement, and any subsequent contract or 71
other agreement for the public improvement to which the public 72
authority and a contractor~~or~~, subcontractor, or other entity 73
are direct parties, do not require or prohibit that a contractor 74
or subcontractor ~~to~~ do any of the following: 75

(A) Enter into agreements with any labor organization on 76
the public improvement; 77

(B) Enter into any agreement that requires the employees 78
of that contractor or subcontractor to do either of the 79
following as a condition of employment or continued employment: 80

(1) Become members of or affiliated with a labor 81
organization; 82

(2) Pay dues or fees to a labor organization. 83

Sec. 4116.021. No state funds shall be distributed to a 84
municipal corporation or county that has adopted a charter under 85
Ohio Constitution, Article X, Section 3, for the purpose of the 86
construction of a public improvement by or on behalf of the 87
municipal corporation or county, if the municipal corporation or 88
county, in procuring products or services, awarding contracts, 89
or overseeing procurement or construction for the public 90
improvement, requires in the bid specifications a contractor or 91
subcontractor to enter into, or prohibits in the bid 92
specifications a contractor or subcontractor from entering into, 93
an agreement described in division (A) or (B) of section 4116.02 94
of the Revised Code. 95

Sec. 4116.03. (A) No public authority shall do ~~any~~ either 96
of the following: 97

~~(A)~~ (1) Award a contract for a public improvement 98
undertaken by or on behalf of the public authority in violation 99
of section 4116.02 of the Revised Code; 100

(2) Otherwise violate section 4116.02 of the Revised Code. 101

(B) ~~Discriminate~~ No public authority shall discriminate 102
against any bidder, contractor, or subcontractor for refusing or 103
electing to become a party to any agreement with any labor 104
organization on the public improvement that currently is under 105
bid or on projects related to that improvement. 106

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

Sec. 4116.031. A public authority may award a contract,
grant, tax abatement, or tax credit to a private owner, bidder,
contractor, subcontractor, or other person or entity who
voluntarily chooses to enter into an agreement described in
division (A) or (B) of section 4116.02 of the Revised Code,
provided that entering into the agreement is not a condition for
the award.

Sec. 4116.04. (A) An interested party may file a complaint
against a contracting public authority, municipal corporation,
or county that has adopted a charter under Ohio Constitution,
Article X, Section 3, alleging a violation of section 4116.02–
or, 4116.021, 4116.03, or 4116.031 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~~, 4116.021, 4116.03, or 4116.031
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.

<u>Sec. 4116.05. Sections 4116.01 to 4116.04 of the Revised</u>	136
<u>Code do not do either of the following:</u>	137
<u>(A) Prohibit employers or other parties from entering into</u>	138
<u>agreements or engaging in any other activity protected by the</u>	139
<u>"National Labor Relations Act," 29 U.S.C. 151, et. seq.</u>	140
<u>(B) Interfere with labor relations of parties that are</u>	141
<u>left unregulated under the "National Labor Relations Act," 29</u>	142
<u>U.S.C. 151, et. seq.</u>	143
Section 2. That existing sections 4116.01, 4116.02,	144
4116.03, and 4116.04 of the Revised Code are hereby repealed.	145
Section 3. That section 153.83 of the Revised Code is	146
hereby repealed.	147