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**SENATE BILL 5167**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senator Ericksen

AN ACT Relating to prohibiting the use of mandatory project labor agreements by regional transit authorities; adding a new section to chapter 39.04 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that to promote and ensure fair competition on regional transit authority public works projects, open competition in public works contracts is necessary. Therefore, to prevent discrimination against governmental bidders, offerors, contractors, or subcontractors based upon labor affiliation or the lack thereof, the legislature declares that project labor agreements may not be part of the competitive bid process.

NEW SECTION. **Sec.**  A new section is added to chapter 39.04 RCW to read as follows:

(1) A regional transit authority seeking a public works bid solicitation, awarding a public works contract or obligating funds to a public works contract, may not include the following in the bid specifications, bid requests, project agreements, or any other controlling documents for the public works project:

(a) A requirement or prohibition that a bidder, offeror, contractor, or subcontractor must enter into or adhere to a project labor agreement;

(b) A term, clause, or statement that infers, either directly or indirectly, that a bidder, offeror, contractor, or subcontractor must enter into or adhere to a project labor agreement;

(c) A term, clause, or statement that rewards or punishes a bidder, offeror, contractor, or subcontractor for becoming or remaining, or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, a project labor agreement; or

(d) Any other provision dealing with project labor agreements.

(2) This section does not:

(a) Prohibit a regional transit authority from awarding a contract 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, and if the regional transit authority does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract based upon the status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization;

(b) Prohibit a private owner, bidder, 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 a regional transit authority;

(c) 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. Secs. 151 to 169; or

(d) Interfere with labor relations of parties that are left unregulated under the national labor relations act, 29 U.S.C. Secs. 151 to 169.

(3) The head of a regional transit authority may exempt a particular project, contract, or subcontract from the requirements of any or all of the provisions of subsection (1) of this section if it 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 subsection may 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.

(4) For purposes of this section a "project labor agreement" means any prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific public works project.

**--- END ---**