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**SENATE BILL 5168**

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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; adding a new section to chapter 39.04 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.32 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 81.112 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 governmental, governmental funded, or governmental assisted public works projects that open competition in governmental public works contracts is necessary. The legislature also finds that when a state agency or municipality awards a grant, tax abatement, or tax credit that it should be an open and fair process. 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 or be a condition for a grant, tax abatement, or tax credit.

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

(1) A state agency or municipality 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) A state agency or municipality may not award a grant, tax abatement or tax credit for a public works project that is conditioned upon a requirement that the awardee include any prohibited provision set out in subsection (1) of this section.

(3) This section does not:

(a) Prohibit a state agency or municipality from awarding a contract, grant, tax abatement, or tax credit 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, grant, tax abatement, or tax credit, and if the state agency or municipality does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, tax abatement, or tax credit 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 state agency or municipality or funded, in whole or in part, from a grant, tax abatement, or tax credit from the state agency or a municipality;

(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.

(4) The head of a state agency or municipality may exempt a particular project, contract, subcontract, grant, tax abatement, or tax credit from the requirements of any or all of the provisions of subsections (1) and (2) 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.

(5) 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.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

Mandatory project labor agreements are prohibited, under section 2 of this act, in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

Mandatory project labor agreements are prohibited, under section 2 of this act, in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

NEW SECTION. **Sec.**  A new section is added to chapter 36.32 RCW to read as follows:

Mandatory project labor agreements are prohibited, under section 2 of this act, in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

NEW SECTION. **Sec.**  A new section is added to chapter 53.08 RCW to read as follows:

Mandatory project labor agreements are prohibited, under section 2 of this act, in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

NEW SECTION. **Sec.**  A new section is added to chapter 81.112 RCW to read as follows:

Mandatory project labor agreements are prohibited, under section 2 of this act, in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

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