
Capital Budget Committee

HB 1723

Brief Description: Promoting the efficient administration of school construction assistance program projects.

Sponsors: Representatives Fosse, Thomas, Salahuddin, Parshley, Scott, Cortes, Nance, Ormsby, Obras, Hill, Macri and Zahn; by request of Superintendent of Public Instruction.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires project labor agreements for school construction assistance program projects over \$35 million.• Creates an exception process and exemptions related to this requirement.

Hearing Date: 2/20/25

Staff: John Wilson-Tepeli (786-7115).

Background:

Project Labor Agreements.

Generally, a project labor agreement is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a construction project.

Department of Labor and Industry and Prevailing Wage.

State law requires that prevailing wages be paid to laborers, workers, and mechanics employed upon all public works and under all public building service maintenance contracts. Public work means all work, construction, alteration, repair, or improvement other than ordinary maintenance that is executed at the cost of the state or any municipality. To establish the prevailing wage for the various trades and occupations, the industrial statistician of the Department of Labor and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Industries (Department) conducts wage surveys. In addition to establishing prevailing wage rates, the Department also receives and investigates prevailing wage noncompliance complaints.

Statutory Capital Programs for K-12 School Construction.

The capital budget appropriates funding to assist school districts with the costs of school construction and other capital costs through several statutory programs, as well as through uncodified provisos in the capital budget bill. In the 2023-25 Capital Budget, the three largest, statutory grant programs are: (a) the School Construction Assistance Program (SCAP); (b) the Small District and Tribal Compact Schools Modernization Program; and (c) the School Seismic Safety Grant Program. The SCAP provides state financial assistance on a formula basis to school districts for constructing new, and remodeling existing, school buildings. Only districts' permanent instructional space is eligible for state funding through the program. The Office of the Superintendent of Public Instruction administers the program and works with school districts on project approval and reimbursement. The Small District and Tribal Compact Schools Modernization Program provides planning and construction grants for small school districts and tribal compact schools with enrollments of 1,000 or fewer students and significant building deficiencies. The School Seismic Safety Grant Program provides planning and construction grants for school districts and state-tribal compact schools for remediation of seismic or tsunami hazards in qualifying buildings.

Summary of Bill:

Definition of Project Labor Agreement.

A project labor agreement (PLA) is defined as a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project, as described in federal code.

Requiring Project Labor Agreements for Certain School Construction Projects.

When awarding a School Construction Assistance Program (SCAP) project for which the total estimated cost of the construction contract is \$35 million or more, or obligating funds pursuant to such a contract, school districts must require every contractor or subcontractor engaged in construction on the project to agree, for that project, to negotiate or become a party to a project labor agreement (PLA) with one or more appropriate labor organizations.

Project Labor Agreements Requirements

Any PLA reached must: (a) bind all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents; (b) allow all contractors and subcontractors on the construction project to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements; (c) contain guarantees against strikes, lockouts, and similar job disruptions; (d) set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement; (e) provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and (f) fully conform to all state laws and regulations. The

PLA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and all contractors and subcontractors working on the project. Contractors or subcontractors entering into a PLA may not be required to do so with any particular labor organization. Projects awarded or receiving funding under Small District and Tribal Compact Schools Modernization, or the School Seismic Safety Grant programs are exempt from this requirement. School districts are not otherwise precluded from requiring a PLA in circumstances not listed above.

Exception Process.

The Department of Labor and Industries may grant an exception from PLA requirements for a particular SCAP project contract by, no later than the solicitation date of the contract, providing an explanation in writing as to why at least one of three circumstances exists with respect to that contract:

1. Requiring a PLA on the project would not advance the state's interests in achieving economy and efficiency in state procurement. Such a finding must be based on the following factors: (a) the project is of short duration and lacks operational complexity; (b) the project will involve only one craft or trade; (c) the project will involve specialized construction work that is available from only a limited number of contractors or subcontractors; (d) the school district's need for the project is of such an unusual and compelling urgency that a PLA would be impracticable; (e) or the project implicates other similar factors deemed appropriate in regulations or guidance.
2. Based on an inclusive market analysis, requiring a PLA for the project would substantially reduce the number of potential bidders so as to frustrate full and open competition.
3. Requiring a PLA for the project would otherwise be inconsistent with state laws and regulations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.