

**As Introduced  
Corrected Version**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 89**

**Senator Jordan**

**Cosponsors: Senators Schaffer, Seitz**

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**A B I L L**

To amend sections 4116.01 to 4116.04 of the Revised Code to prohibit state agencies from requiring or prohibiting certain labor requirements as a condition of performing public works and to prohibit the appropriation of state funds for public works when political subdivisions require or prohibit certain labor requirements. 1  
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**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 amended to read as follows: 8  
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**Sec. 4116.01.** As used in sections 4116.01 to 4116.04 of the Revised Code: 10  
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(A) "~~Public authority~~ State agency" 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~~ 12  
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~~three and seven of article XVIII of the Ohio constitution, unless~~ 19  
~~the specific contract for a public improvement includes state~~ 20  
~~funds appropriated for the purposes of that public improvement.~~ 21

(B) "Construction" means ~~all~~ both of the following: 22

(1) Any new construction of any public improvement performed 23  
by other than full-time employees who have completed their 24  
probationary periods in the classified service of a ~~public~~ 25  
~~authority~~ state agency; 26

(2) Any reconstruction, enlargement, alteration, repair, 27  
remodeling, renovation, or painting of any public improvement 28  
performed by other than full-time employees who have completed 29  
their probationary period in the classified civil service of a 30  
~~public authority~~; 31

~~(3) Construction on any project, facility, or project~~ 32  
~~facility to which section 122.452, 122.80, 165.031, 166.02,~~ 33  
~~1551.13, 1728.07, or 3706.042 of the Revised Code applies~~ state 34  
agency. 35

(C) "Public improvement" means all buildings, roads, streets, 36  
alleys, sewers, ditches, sewage disposal plants, water works, and 37  
other structures or works constructed by a ~~public authority~~ state 38  
agency or by any person who, pursuant to a contract with a ~~public~~ 39  
~~authority~~ state agency, constructs any structure or work for a 40  
~~public authority~~ state agency. When a ~~public authority~~ state 41  
agency rents or leases a newly constructed structure within six 42  
months after completion of its construction, all work performed on 43  
that structure to suit it for occupancy by a ~~public authority~~ 44  
state agency is a "public improvement." 45

(D) "Interested party," with respect to a particular public 46  
improvement, means all of the following: 47

(1) Any person who submits a bid for the purpose of securing 48  
the award of a contract for the public improvement; 49

(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section; 50  
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(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section; 52  
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(4) Any employee of a person mentioned in division (D)(1), (2), or (3) of this section; 54  
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(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~~ this state. 56  
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(E) "Political subdivision" has the same meaning as in section 9.23 of the Revised Code. 60  
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**Sec. 4116.02.** A ~~public authority~~ state agency, 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~~ state agency for the proposed public improvement, and any subsequent contract or other agreement for the public improvement to which the ~~public authority~~ state agency and a contractor or subcontractor are direct parties, do not require or prohibit that a contractor or subcontractor ~~to~~ do any of the following: 62  
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(A) Enter into agreements with any labor organization on the public improvement; 72  
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(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: 74  
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(1) Become members of or affiliated with a labor organization; 77  
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(2) Pay dues or fees to a labor organization. 79

Sec. 4116.03. ~~(A)~~ No ~~public authority~~ state agency shall do 80  
any of the following: 81

~~(A)(1)~~ Award a contract for a public improvement in violation 82  
of section 4116.02 of the Revised Code; 83

~~(B)(2)~~ Discriminate against any bidder, contractor, or 84  
subcontractor for refusing to become a party to any agreement with 85  
any labor organization on the public improvement that currently is 86  
under bid or on projects related to that improvement; 87

~~(C)(3)~~ Otherwise violate section 4116.02 of the Revised Code; 88

(4) Issue grants or enter into cooperative agreements for 89  
construction that have as a condition of the grant or agreement 90  
that bid specifications, project agreements, or other documents 91  
related to the grant or cooperative agreement contain either of 92  
the items described in division (A) or (B) of section 4116.02 of 93  
the Revised Code; 94

(5) Discriminate against any grant recipient or party to a 95  
cooperative agreement for construction for refusing to become a 96  
party to any agreement with any labor organization on the grant 97  
project or cooperative agreement construction project. 98

(B) Within the authority granted to a state agency by the 99  
Revised Code, the state agency shall prevent a grant recipient or 100  
a party to a cooperative agreement from behaving inconsistently 101  
with division (A)(2) of this section. 102

(C) No state funds shall be appropriated for the purpose of 103  
constructing a public improvement, if any political subdivision of 104  
the state, in procuring products or services, awarding contracts, 105  
or overseeing procurement or construction for public improvements, 106  
requires a contractor or subcontractor to enter into, or prohibits 107  
a contractor or subcontractor from entering into, an agreement 108  
described in divisions (A) or (B) of section 4116.02 of the 109

Revised Code. 110

**Sec. 4116.04.** (A) An interested party may file a complaint 111  
against a ~~contracting public authority~~ state agency alleging a 112  
violation of section 4116.02 or 4116.03 of the Revised Code within 113  
two years after the date on which the contract is signed for the 114  
public improvement in the court of common pleas of the county in 115  
which the public improvement is performed. The performance of the 116  
contract forms the basis of the allegation of a violation. The 117  
court in which the complaint is filed shall hear and decide the 118  
case and, upon a finding that a violation has occurred, shall void 119  
the contract and make any orders that will prevent further 120  
violations. 121

The Rules of Civil Procedure govern all actions under this 122  
section. Any determination of a court under this section is 123  
subject to appellate review. 124

(B) If, pursuant to this section, a court finds a violation 125  
of section 4116.02 or 4116.03 of the Revised Code, the court may 126  
award reasonable attorney's fees, court costs, and any other fees 127  
incurred in the course of the civil action to the prevailing 128  
plaintiff. 129

**Section 2.** That existing sections 4116.01, 4116.02, 4116.03, 130  
and 4116.04 of the Revised Code are hereby repealed. 131