

Act No. 238  
Public Acts of 2012  
Approved by the Governor  
June 26, 2012  
Filed with the Secretary of State  
June 29, 2012  
EFFECTIVE DATE: June 29, 2012

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

**Introduced by Senators Moolenaar, Jones, Hildenbrand, Robertson, Proos, Brandenburg, Walker, Meekhof, Pavlov, Booher, Hansen, Casperson, Kahn, Pappageorge, Colbeck, Green, Nofs, Jansen, Emmons, Hune, Caswell, Kowall, Richardville, Schuitmaker and Marleau**

# **ENROLLED SENATE BILL No. 1085**

AN ACT to amend 2011 PA 98, entitled "An act to provide for fair and open competition in governmental construction contracts, grants, tax abatements, and tax credits; to prohibit requirements for certain terms in government contracts and contracts supported through government grants and tax subsidies and abatements; to prohibit expenditure of public funds under certain conditions; to prohibit certain terms in procurement documents for certain expenditures involving public facilities; and to provide for powers and duties of certain public officers, employees, and contractors," by amending the title and sections 5, 7, 9, and 13 (MCL 408.875, 408.877, 408.879, and 408.883) and by adding sections 2 and 8.

*The People of the State of Michigan enact:*

## TITLE

An act to provide for fair and open competition in governmental construction contracts, grants, tax abatements, and tax credits; to prohibit requirements for certain terms in government contracts; to prohibit certain terms in procurement documents for certain expenditures involving public facilities; and to provide for powers and duties of certain public officers, employees, and contractors.

Sec. 2. The legislature intends this act to provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction-related goods and services by this state and political subdivisions of this state as market participants, and providing for fair and open competition best effectuates this intent.

Sec. 5. Subject to section 8, a governmental unit awarding a contract on or after the effective date of the amendatory act that added section 2 for the construction, repair, remodeling, or demolition of a facility and any construction manager acting on its behalf shall not, in any bid specifications, project agreements, or other controlling documents:

(a) Require or prohibit a bidder, offeror, contractor, or subcontractor from entering into or adhering to an agreement with 1 or more labor organizations in regard to that project or a related construction project.

(b) Otherwise discriminate against 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, an agreement with 1 or more labor organizations in regard to that project or a related construction project.

Sec. 7. Subject to section 8, a governmental unit shall not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the awardee include a term described in section 5(a) or (b) in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax credit.

Sec. 8. (1) This act does not prohibit a governmental unit 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 governmental unit 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.

(2) This act does not prohibit a contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with 1 or more labor organizations in regard to a contract with a governmental unit or funded in whole or in part from a grant, tax abatement, or tax credit from the governmental unit.

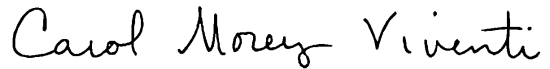
Sec. 9. The head of a governmental unit may exempt a particular project, contract, subcontract, grant, tax abatement, or tax credit from the requirements of any or all of the provisions of section 5 or 7 if the governmental unit finds, after public notice and a hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstances under this section shall 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 1 or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

Sec. 13. This act does not do either of the following:

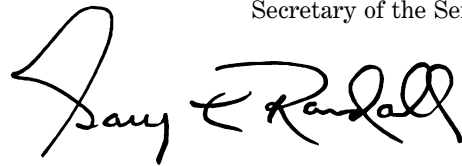
(a) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the national labor relations act, 29 USC 151 to 169.

(b) Interfere with labor relations of parties that are left unregulated under the national labor relations act, 29 USC 151 to 169.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor