

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1403

AN ACT

AMENDING SECTIONS 34-321 AND 40-360.06, ARIZONA REVISED STATUTES; RELATING TO
EMPLOYEES AND PUBLIC WORKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-321, Arizona Revised Statutes, is amended to
3 read:

4 34-321. Public policy: prevailing wage contract prohibited:
5 definitions

6 A. The public interest in the rates of wages paid under public works
7 contracts transcends local or municipal interests and is of statewide
8 concern.

9 B. Agencies and political subdivisions of this state, ~~including~~
10 ~~charter cities~~, shall not by regulation, ordinance or in any other manner
11 require public works contracts to contain a provision requiring the wages
12 paid by the contractor or any subcontractor to be not less than the
13 prevailing rate of wages for work of a similar nature in the state or
14 political subdivision where the project is located.

15 C. AGENCIES AND POLITICAL SUBDIVISIONS OF THIS STATE SHALL NOT REQUIRE
16 IN ANY PUBLIC WORKS CONTRACTS THAT A CONTRACTOR, SUBCONTRACTOR, MATERIAL
17 SUPPLIER, OR CARRIER ENGAGED IN THE CONSTRUCTION, MAINTENANCE, REPAIR OR
18 IMPROVEMENT OF PUBLIC WORKS, NEGOTIATE, EXECUTE OR OTHERWISE BECOME A PARTY
19 TO ANY PROJECT LABOR AGREEMENT OR OTHER AGREEMENT WITH EMPLOYEES, EMPLOYEES'
20 REPRESENTATIVES OR ANY LABOR ORGANIZATION AS A CONDITION OF OR A FACTOR IN
21 BIDDING, NEGOTIATING, BEING AWARDED OR PERFORMING WORK ON A PUBLIC WORKS
22 CONTRACT. THIS SUBSECTION DOES NOT:

23 1. PROHIBIT PRIVATE PARTIES FROM ENTERING INTO INDIVIDUAL COLLECTIVE
24 BARGAINING RELATIONSHIPS.

25 2. REGULATE OR INTERFERE WITH ACTIVITY PROTECTED BY LAW, INCLUDING THE
26 NATIONAL LABOR RELATIONS ACT.

27 ~~C.~~ D. ~~In~~ FOR THE PURPOSES OF this section:

28 1. "AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1001.

29 2. "POLITICAL SUBDIVISION" MEANS A CITY, CHARTER CITY, TOWN, COUNTY,
30 SCHOOL DISTRICT, COMMUNITY COLLEGE DISTRICT, MULTI-COUNTY WATER CONSERVATION
31 DISTRICT, INDUSTRIAL DEVELOPMENT AUTHORITY OR SPECIAL TAXING DISTRICT
32 ESTABLISHED PURSUANT TO TITLE 48 THAT IS PRIMARILY SUPPORTED BY TAXES.

33 3. "PROJECT LABOR AGREEMENT" MEANS ANY PRE-HIRE, COLLECTIVE
34 BARGAINING, MODEL CONSTRUCTION OR SIMILAR TYPE OF AGREEMENT ENTERED INTO WITH
35 ONE OR MORE LABOR ORGANIZATIONS, EMPLOYEES OR EMPLOYEE REPRESENTATIVES THAT
36 ESTABLISHES THE TERMS AND CONDITIONS OF EMPLOYMENT ON A CONSTRUCTION PROJECT.

37 4. "Public works contract" means a contract to which the state or a
38 political subdivision is a party involving the employment of laborers,
39 workmen or mechanics in the construction, alteration or repair of public
40 buildings or improvements.

1 Sec. 2. Section 40-360.06, Arizona Revised Statutes, is amended to
2 read:

3 40-360.06. Factors to be considered in issuing a certificate of
4 environmental compatibility

5 A. The committee may approve or deny an application and may impose
6 reasonable conditions ~~upon~~ ON the issuance of a certificate of environmental
7 compatibility and in so doing shall consider the following factors as a basis
8 for its action with respect to the suitability of either plant or
9 transmission line siting plans:

10 1. Existing plans of the state, local government and private entities
11 for other developments at or in the vicinity of the proposed site.

12 2. Fish, wildlife and plant life and associated forms of life ~~upon~~ ON
13 which they are dependent.

14 3. Noise emission levels and interference with communication signals.

15 4. The proposed availability of the site to the public for
16 recreational purposes, consistent with safety considerations and regulations.

17 5. Existing scenic areas, historic sites and structures or
18 archaeological sites at or in the vicinity of the proposed site.

19 6. The total environment of the area.

20 7. The technical practicability of achieving a proposed objective and
21 the previous experience with equipment and methods available for achieving a
22 proposed objective.

23 8. The estimated cost of the facilities and site as proposed by the
24 applicant and the estimated cost of the facilities and site as recommended by
25 the committee, recognizing that any significant increase in costs represents
26 a potential increase in the cost of electric energy to the customers or the
27 applicant.

28 9. Any additional factors ~~which~~ THAT require consideration under
29 applicable federal and state laws pertaining to any such site.

30 B. The committee shall give special consideration to the protection of
31 areas unique because of biological wealth or because they are habitats for
32 rare and endangered species.

33 C. Notwithstanding any other provision of this article, the committee
34 shall require in all certificates for facilities that the applicant comply
35 with all applicable nuclear radiation standards and air and water pollution
36 control standards and regulations, but shall not require EITHER OF THE
37 FOLLOWING:

38 1. Compliance with performance standards other than those established
39 by the agency having primary jurisdiction over a particular pollution source.

40 2. THAT A CONTRACTOR, SUBCONTRACTOR, MATERIAL SUPPLIER OR OTHER PERSON
41 ENGAGED IN THE CONSTRUCTION, MAINTENANCE, REPAIR OR IMPROVEMENT OF ANY
42 PROJECT SUBJECT TO APPROVAL OF THE COMMISSION NEGOTIATE, EXECUTE OR OTHERWISE
43 BECOME A PARTY TO ANY PROJECT LABOR AGREEMENT OR OTHER AGREEMENT WITH
44 EMPLOYEES, EMPLOYEES' REPRESENTATIVES OR ANY LABOR ORGANIZATION AS A

1 CONDITION OF OR A FACTOR IN THE COMMISSION'S APPROVAL OF THE PROJECT. THIS
2 PARAGRAPH DOES NOT:
3 (a) PROHIBIT PRIVATE PARTIES FROM ENTERING INTO INDIVIDUAL COLLECTIVE
4 BARGAINING RELATIONSHIPS.
5 (b) REGULATE OR INTERFERE WITH ACTIVITY PROTECTED BY LAW, INCLUDING
6 THE NATIONAL LABOR RELATIONS ACT.
7 D. Any certificate granted by the committee shall be conditioned on
8 compliance by the applicant with all applicable ordinances, master plans and
9 regulations of the state, a county or an incorporated city or town, except
10 that the committee may grant a certificate notwithstanding any such
11 ordinance, master plan or regulation, exclusive of franchises, if the
12 committee finds as a fact that compliance with such ordinance, master plan or
13 regulation is unreasonably restrictive and compliance therewith is not
14 feasible in view of technology available. When it becomes apparent to the
15 chairman of the committee or to the hearing officer that an issue exists
16 with respect to whether such an ordinance, master plan or regulation is
17 unreasonably restrictive and compliance therewith is not feasible in view of
18 technology available, ~~he~~ CHAIRMAN OR HEARING OFFICER shall promptly serve
19 notice of such fact by certified mail ~~upon~~ ON the chief executive officer of
20 the area of jurisdiction affected and, notwithstanding any provision of this
21 article to the contrary, shall make such area of jurisdiction a party to the
22 proceedings ~~upon~~ ON its request and shall give it an opportunity to respond
23 on such issue.