

REFERENCE TITLE: neutrality agreement; apprenticeship agreement; prohibition

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SB 1090

Introduced by
Senator Kavanagh

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 34, chapter 3, article 2, Arizona Revised
4 Statutes, is changed from "WAGES AND HOURS" to "WAGES, HOURS AND AGREEMENTS".

5 Sec. 2. Section 34-321, Arizona Revised Statutes, is amended to read:

6 34-321. Public policy; prevailing wage contract; prohibited
7 agreements; definitions

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

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

17 C. Agencies and political subdivisions of this state shall not require
18 in any public works contracts that a contractor, subcontractor, material
19 supplier, ~~or carrier engaged in the construction, maintenance, repair or~~
20 ~~improvement of public works, negotiate, execute or otherwise become a party~~
21 ~~to any project labor agreement or other agreement with employees, employees'~~
22 ~~representatives or any labor organization~~ DO ANY OF THE FOLLOWING as a
23 condition of or a factor in bidding, negotiating, being awarded or performing
24 work on a public works contract:

25 1. NEGOTIATE, EXECUTE OR OTHERWISE BECOME A PARTY TO ANY PROJECT LABOR
26 AGREEMENT OR OTHER AGREEMENT WITH EMPLOYEES, EMPLOYEES' REPRESENTATIVES OR
27 ANY LABOR ORGANIZATION.

28 2. ENTER INTO A NEUTRALITY AGREEMENT WITH ANY LABOR ORGANIZATION.

29 3. PARTICIPATE IN OR CONTRIBUTE TO AN APPRENTICESHIP PROGRAM THAT IS
30 REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR.

31 ~~This~~ Subsection C OF THIS SECTION does not:

32 1. Prohibit private parties from entering into individual collective
33 bargaining relationships.

34 2. Regulate or interfere with activity protected by law, including the
35 national labor relations act.

36 ~~D.~~ E. For the purposes of this section:

37 1. "Agency" has the same meaning prescribed in section 41-1001.

38 2. "NEUTRALITY AGREEMENT" INCLUDES AN AGREEMENT TO REMAIN NEUTRAL
39 TOWARD ANY LABOR ORGANIZATION, RELEASE PRIVATE EMPLOYEE INFORMATION NOT
40 REQUIRED BY FEDERAL LABOR LAW, ALLOW ACCESS TO PROPERTY BEYOND WHAT IS
41 REQUIRED BY FEDERAL LABOR LAW AND RECOGNIZE A LABOR ORGANIZATION WITHOUT A
42 SECRET BALLOT ELECTION CONDUCTED PURSUANT TO FEDERAL LABOR LAW.

43 ~~2.~~ 3. "Political subdivision" means a city, charter city, town,
44 county, school district, community college district, multi-county water
45 conservation district, industrial development authority or special taxing

1 district established pursuant to title 48 that is primarily supported by
2 taxes.

3 ~~3-~~ 4. "Project labor agreement" means any prehire, collective
4 bargaining, model construction or similar type of agreement entered into with
5 one or more labor organizations, employees or employee representatives that
6 establishes the terms and conditions of employment on a construction project.

7 ~~4-~~ 5. "Public works contract" means a contract to which ~~the~~ THIS
8 state or a political subdivision is a party involving the employment of
9 laborers, workmen or mechanics in the construction, alteration or repair of
10 public buildings or improvements.

11 Sec. 3. Section 40-360.06, Arizona Revised Statutes, is amended to
12 read:

13 40-360.06. Factors to be considered in issuing a certificate of
14 environmental compatibility

15 A. The committee may approve or deny an application and may impose
16 reasonable conditions on the issuance of a certificate of environmental
17 compatibility and in so doing shall consider the following factors as a basis
18 for its action with respect to the suitability of either plant or
19 transmission line siting plans:

20 1. Existing plans of ~~the~~ THIS state, local government and private
21 entities for other developments at or in the vicinity of the proposed site.

22 2. Fish, wildlife and plant life and associated forms of life on which
23 they are dependent.

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

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

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

29 6. The total environment of the area.

30 7. The technical practicability of achieving a proposed objective and
31 the previous experience with equipment and methods available for achieving a
32 proposed objective.

33 8. The estimated cost of the facilities and site as proposed by the
34 applicant and the estimated cost of the facilities and site as recommended by
35 the committee, recognizing that any significant increase in costs represents
36 a potential increase in the cost of electric energy to the customers or the
37 applicant.

38 9. Any additional factors that require consideration under applicable
39 federal and state laws pertaining to any such site.

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

43 C. Notwithstanding any other provision of this article, the committee
44 shall require in all certificates for facilities that the applicant comply
45 with all applicable nuclear radiation standards and air and water pollution

1 control standards and regulations, but shall not require either of the
2 following:

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

5 2. That a contractor, subcontractor, material supplier or other person
6 engaged in the construction, maintenance, repair or improvement of any
7 project subject to approval of the commission negotiate, execute or otherwise
8 become a party to any project labor agreement, **NEUTRALITY AGREEMENT AS**
9 **DEFINED IN SECTION 34-321, APPRENTICESHIP PROGRAM PARTICIPATION OR**
10 **CONTRIBUTION AGREEMENT** or other agreement with employees, employees'
11 representatives or any labor organization as a condition of or a factor in
12 the commission's approval of the project. This paragraph does not:

13 (a) Prohibit private parties from entering into individual collective
14 bargaining relationships.

15 (b) Regulate or interfere with activity protected by law, including
16 the national labor relations act.

17 D. Any certificate granted by the committee shall be conditioned on
18 compliance by the applicant with all applicable ordinances, master plans and
19 regulations of the state, a county or an incorporated city or town, except
20 that the committee may grant a certificate notwithstanding any such
21 ordinance, master plan or regulation, exclusive of franchises, if the
22 committee finds as a fact that compliance with such ordinance, master plan or
23 regulation is unreasonably restrictive and compliance therewith is not
24 feasible in view of technology available. When it becomes apparent to the
25 chairman of the committee or to the hearing officer that an issue exists with
26 respect to whether such an ordinance, master plan or regulation is
27 unreasonably restrictive and compliance therewith is not feasible in view of
28 technology available, **THE** chairman or hearing officer shall promptly serve
29 notice of such fact by certified mail on the chief executive officer of the
30 area of jurisdiction affected and, notwithstanding any provision of this
31 article to the contrary, shall make such area of jurisdiction a party to the
32 proceedings on its request and shall give it an opportunity to respond on
33 such issue.