

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

D

HOUSE BILL 110  
PROPOSED COMMITTEE SUBSTITUTE H110-PCS80207-ST-11

Short Title: Public Contracts/Project Labor.

(Public)

Sponsors:

Referred to:

February 18, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR FAIR AND OPEN COMPETITION IN GOVERNMENTAL  
3 CONSTRUCTION CONTRACTS AND TO PROHIBIT REQUIREMENTS FOR  
4 CERTAIN TERMS IN GOVERNMENT CONTRACTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by  
7 adding a new section to read as follows:

8 "**§ 143-133.5. Public contracts; labor organizations.**

9 (a) It is the intent of the General Assembly that the provisions of this section will  
10 provide for more economical, nondiscriminatory, neutral, and efficient procurement of  
11 construction-related services by the State and political subdivisions of the State as market  
12 participants. The General Assembly finds that providing for fair and open competition best  
13 effectuates this intent.

14 (b) Every officer, board, department, commission, or commissions charged with the  
15 responsibility of preparation of specifications or awarding or entering into contracts for the  
16 erection, construction, alteration, or repair of any buildings for the State, or for any county,  
17 municipality, or other public body subject to this Article shall not in any bid specifications,  
18 project agreements, or other controlling documents:

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

22 (2) Otherwise discriminate against a bidder, offeror, contractor, or subcontractor  
23 for becoming, remaining, refusing to become or remain a signatory to, or for  
24 adhering or refusing to adhere to an agreement with one or more labor  
25 organizations in regard to that project or a related construction project.

26 (c) No officer, board, department, commission, or commissions charged with the  
27 responsibility of awarding grants or tax incentives, or any county, municipality, or other public  
28 body in the award of grants or tax incentives, may award a grant or tax incentive that is  
29 conditioned upon a requirement that the awardee include a term described in subsection (b) of  
30 this section in a contract document for any construction, improvement, maintenance, or  
31 renovation to real property or fixtures that are the subject of the grant or tax incentive.

32 (d) This section does not prohibit any officer, board, department, commission, or  
33 commissions or any county, municipality, or other public body from awarding a contract, grant,  
34 or tax incentive to a private owner, bidder, contractor, or subcontractor who enters into or who  
35 is party to an agreement with a labor organization if being or becoming a party or adhering to  
36 an agreement with a labor organization is not a condition for award of the contract, grant, or tax



\* H 1 1 0 - P C S 8 0 2 0 7 - S T - 1 1 \*

1 incentive, and if the State agent, employee, or board or the political subdivision does not  
2 discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of  
3 that contract, grant, or tax incentive based upon the person's status as being or becoming, or the  
4 willingness or refusal to become, a party to an agreement with a labor organization.

5 (e) This section does not prohibit a contractor or subcontractor from voluntarily  
6 entering into or complying with an agreement entered into with one or more labor organizations  
7 in regard to a contract with the State or a political subdivision of the State or funded in whole  
8 or in part from a grant or tax incentive from the State or political subdivision.

9 (f) The State or the governing body of a political subdivision may exempt a particular  
10 project, contract, subcontract, grant, or tax incentive from the requirements of any or all of the  
11 provisions of subsection (b) or (c) of this section if the State or governing body of the political  
12 subdivision finds, after public notice and a hearing, that special circumstances require an  
13 exemption to avert a significant, documentable threat to public health or safety. A finding of  
14 special circumstances under this section shall not be based on the possibility or presence of a  
15 labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or  
16 otherwise do not adhere to, agreements with one or more labor organizations, or concerning  
17 employees on the project who are not members of or affiliated with a labor organization.

18 (g) This section does not do either of the following:

19 (1) Prohibit employers or other parties from entering into agreements or  
20 engaging in any other activity protected by the National Labor Relations  
21 Act, 29 U.S.C. §§ 151 to 169.

22 (2) Interfere with labor relations of parties that are left unregulated under the  
23 National Labor Relations Act, 29 U.S.C. §§ 151 to 169."

24 **SECTION 2.** This act becomes effective October 1, 2013, and applies to all  
25 contracts awarded on or after that date.