

**First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO**

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 01-0736.01 Julie Hoerner

**HOUSE BILL 01-1300**

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**HOUSE SPONSORSHIP**

**Rhodes,**

**SENATE SPONSORSHIP**

**Musgrave,**

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**House Committees**

Business Affairs & Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A PROHIBITION ON CERTAIN REQUIREMENTS RELATED TO**  
102             **RELATIONSHIPS WITH LABOR ORGANIZATIONS IN CONTRACTS**  
103             **FOR PUBLIC PROJECTS BY PUBLIC ENTITIES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits a public entity from requiring affiliation with a labor organization or discriminating against a contractor, subcontractor, or the employees thereof for choosing not to affiliate with a labor organization for the purpose of obtaining or maintaining a bid for or completing construction on a public project. Provides for civil remedies for a contractor, a subcontractor, an employee of a contractor or subcontractor, or an association of which the contractor or subcontractor is a member for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

HOUSE  
Amended 3rd Reading  
February 28, 2001

HOUSE  
Amended 2nd Reading  
February 27, 2001

forced participation in a labor organization or the payment of labor organization dues. Defines terms.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 24-91-102, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **24-91-102. Definitions.** As used in this article, unless the context  
5 otherwise requires:

6 (2.5) "INTERESTED PARTY" MEANS ANY OF THE FOLLOWING:

7 (a) ANY CONTRACTOR OR EMPLOYEE OF A CONTRACTOR;

8 (b) ANY SUBCONTRACTOR OR EMPLOYEE OF A SUBCONTRACTOR;

9 (c) ANY ASSOCIATION HAVING AS A MEMBER EITHER A  
10 CONTRACTOR OR A SUBCONTRACTOR; OR

11 (d) ANY INDIVIDUAL WHO RESIDES WITHIN THE TERRITORIAL  
12 JURISDICTION OF THE PUBLIC ENTITY FOR WHOM THE CONSTRUCTION,  
13 ALTERATION, OR REPAIR OF ANY HIGHWAY, PUBLIC BUILDING, PUBLIC  
14 WORK, OR PUBLIC IMPROVEMENT, STRUCTURE, OR SYSTEM IS PROCURED OR  
15 IS BEING PERFORMED.

16 **SECTION 2.** Article 91 of title 24, Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS  
18 to read:

19 **24-91-111. Prohibited acts.** (1) A PUBLIC ENTITY SHALL NOT:

20 (a) AWARD A CONTRACT FOR THE CONSTRUCTION, ALTERATION, OR  
21 REPAIR OF ANY HIGHWAY, PUBLIC BUILDING, PUBLIC WORK, OR PUBLIC  
22 IMPROVEMENT, STRUCTURE, OR SYSTEM IN VIOLATION OF SECTION  
23 24-92-115; OR

24 (b) DISCRIMINATE AGAINST ANY BIDDER, CONTRACTOR, OR  
25 SUBCONTRACTOR FOR REFUSING TO BECOME A PARTY TO AN AGREEMENT

1 WITH ANY LABOR ORGANIZATION ON A PROJECT INVOLVING THE  
2 CONSTRUCTION, ALTERATION, OR REPAIR OF ANY HIGHWAY, PUBLIC  
3 BUILDING, PUBLIC WORK, OR PUBLIC IMPROVEMENT, STRUCTURE, OR  
4 SYSTEM THAT IS CURRENTLY UNDER BID OR ON PROJECTS RELATED TO SUCH  
5 A PROJECT.

6 **24-91-112. Civil remedies.** (1) (a) ON OR AFTER JULY 1, 2001,  
7 AN INTERESTED PARTY MAY FILE A COMPLAINT, IN A COURT OF COMPETENT  
8 JURISDICTION, AGAINST A CONTRACTING PUBLIC ENTITY ALLEGING A  
9 VIOLATION OF SECTION 24-91-111 OR 24-92-115 FOR CONTRACTS ENTERED  
10 INTO WITH A PUBLIC ENTITY ON OR AFTER JULY 1, 2001, WITHIN TWO YEARS  
11 AFTER THE DATE THE CONTRACT IS SIGNED FOR THE CONSTRUCTION,  
12 ALTERATION, OR REPAIR OF ANY HIGHWAY, PUBLIC BUILDING, PUBLIC  
13 WORK, OR PUBLIC IMPROVEMENT, STRUCTURE, OR SYSTEM. THE COURT,  
14 UPON A FINDING THAT A VIOLATION HAS OCCURRED, SHALL MAKE ANY  
15 ORDERS THAT SHALL PREVENT FURTHER VIOLATION.

16 (b) IN THE EVENT THE INTERESTED PARTY IS A CONTRACTOR OR  
17 SUBCONTRACTOR WHO MEETS THE REQUIREMENTS OF THE PUBLIC ENTITY  
18 AS A QUALIFIED BIDDER AND WHO FILES A COMPLAINT PURSUANT TO  
19 PARAGRAPH (a) OF THIS SUBSECTION (1), THE CONTRACTOR OR  
20 SUBCONTRACTOR MAY ONLY SEEK LIQUIDATED DAMAGES IN THE AMOUNT  
21 OF THE CONTRACT FOR THE PUBLIC PROJECT IN ADDITION TO THE DAMAGES  
22 ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE  
23 CONTRACTOR OR SUBCONTRACTOR WHO MEETS THE REQUIREMENTS OF THE  
24 PUBLIC ENTITY AS A QUALIFIED BIDDER MAY NOT SEEK TO VOID THE  
25 CONTRACT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1). THE  
26 PROVISIONS OF THIS PARAGRAPH (b) SHALL BE EXEMPT FROM THE  
27 LIMITATION ON DAMAGES PURSUANT TO SECTION 24-10-116.

1 (2) IF, PURSUANT TO THIS SECTION, A COURT FINDS A VIOLATION OF  
2 SECTION 24-91-111 OR 24-92-115, THE COURT MAY AWARD TO THE  
3 PREVAILING PLAINTIFF REASONABLE ATTORNEY FEES, COURT COSTS, AND  
4 ANY OTHER FEES INCURRED IN THE COURSE OF THE ACTION.

5 **SECTION 3.** Article 92 of title 24, Colorado Revised Statutes, is  
6 amended BY THE ADDITION OF A NEW SECTION to read:

7 **24-92-115. Prohibited acts.** (1) ANY PUBLIC ENTITY, AS DEFINED  
8 IN SECTION 24-91-102 (3), WHEN ENGAGED IN PROCURING PRODUCTS OR  
9 SERVICES, AWARDING CONTRACTS, OR OVERSEEING PROCUREMENT OR  
10 CONSTRUCTION FOR PUBLIC PROJECTS, SHALL ENSURE THAT BID  
11 SPECIFICATIONS ISSUED BY THE PUBLIC ENTITY ACCEPTING BIDS AND ANY  
12 SUBSEQUENT CONTRACT OR OTHER AGREEMENT FOR THE PUBLIC  
13 IMPROVEMENT TO WHICH THE PUBLIC ENTITY AND A CONTRACTOR, AS  
14 DEFINED IN SECTION 24-91-102 (2), OR SUBCONTRACTOR, AS DEFINED IN  
15 SECTION 24-91-102 (4), ARE DIRECT PARTIES DO NOT REQUIRE A  
16 CONTRACTOR OR SUBCONTRACTOR TO:

17 (a) ENTER INTO AN AGREEMENT WITH ANY LABOR ORGANIZATION;

18 (b) ENTER INTO ANY AGREEMENT THAT REQUIRES AN EMPLOYEE OF  
19 THE CONTRACTOR OR SUBCONTRACTOR TO DO EITHER OF THE FOLLOWING  
20 AS A CONDITION OF EMPLOYMENT OR CONTINUED EMPLOYMENT:

21 (I) BECOME A MEMBER OF OR AFFILIATE WITH A LABOR  
22 ORGANIZATION; OR

23 (II) PAY DUES TO A LABOR ORGANIZATION.

24 (2) NOTHING IN THIS SECTION SHALL PROHIBIT A CONTRACTOR OR  
25 SUBCONTRACTOR THAT EMPLOYS OR HAS EMPLOYEES WHO ARE MEMBERS  
26 OF A LABOR UNION FROM BIDDING ON A CONTRACT FOR A PUBLIC PROJECT  
27 OR FROM BEING AWARDED A CONTRACT FOR A PUBLIC PROJECT.

1           **SECTION 4. Effective date - applicability.** This act shall take  
2 effect July 1, 2001, and shall apply to public projects commenced on or  
3 after said date.

4           **SECTION 5. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.