

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 2.2-4321.2, relating to contracts*
3 *with state agencies for public works; agreements with labor organizations.*

4 [S 242]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 2.2-4321.2 as follows:**8 **§ 2.2-4321.2. Public works contract requirements.**9 **A. As used in this section:**10 *"Public works" means the operation, erection, construction, alteration, improvement, maintenance, or*
11 *repair of any public facility or immovable property owned, used, or leased by a state agency.*12 *"State agency" means any authority, board, department, instrumentality, institution, agency, or other*
13 *unit of state government. "State agency" shall not include any county, city, or town.*14 *B. Except as provided in subsection F or as required by federal law, each state agency, when*
15 *engaged in procuring products or services or letting contracts for construction, manufacture,*
16 *maintenance, or operation of public works paid for in whole or in part by state funds, or when*
17 *overseeing or administering such procurement, construction, manufacture, maintenance, or operation,*
18 *shall ensure that neither the state agency nor any construction manager acting on behalf of the state*
19 *agency shall, in its bid specifications, project agreements, or other controlling documents:*20 *1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to*
21 *agreements with one or more labor organizations, on the same or related public works projects; or*22 *2. Otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for*
23 *becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or*
24 *more labor organizations, on the same or other related public works projects.*25 *Nothing in this subsection shall prohibit contractors or subcontractors from voluntarily entering into*
26 *agreements described in subdivision 1.*27 *C. A state agency issuing grants, providing financial assistance, or entering into cooperative*
28 *agreements for the construction, manufacture, maintenance, or operation of public works shall ensure*
29 *that neither the bid specifications, project agreements, nor other controlling documents therefor awarded*
30 *by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any*
31 *construction manager acting on behalf of such recipients, shall:*32 *1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to*
33 *agreements with one or more labor organizations, on the same or related projects; or*34 *2. Otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for*
35 *becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or*
36 *more labor organizations, on the same or other related projects.*37 *D. If an awarding authority, a recipient of grants or financial assistance, a party to a cooperative*
38 *agreement, or a construction manager acting on behalf of any of them performs in a manner contrary to*
39 *the provisions of subsection B or C, the state agency awarding the contract, grant, or assistance shall*
40 *be entitled to injunctive relief to prevent any violation of this section.*41 *E. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or operator,*
42 *shall have standing to challenge any bid specification, project agreement, neutrality agreement,*
43 *controlling document, grant, or cooperative agreement that violates the provisions of this section.*
44 *Furthermore, such interested party shall be entitled to injunctive relief to prevent any violation of this*
45 *section.*46 **F. The provisions of this section shall not:**47 *1. Apply to any public-private agreement for any construction or infrastructure project in which the*
48 *private body, as a condition of its investment or partnership with the state agency, requires that the*
49 *private body have the right to control its labor relations policy and perform all work associated with*
50 *such investment or partnership in compliance with all collective bargaining agreements to which the*
51 *private party is a signatory and is thus legally bound with its own employees and the employees of its*
52 *contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C.*
53 *§ 151, or the Railway Labor Act, 45 U.S.C. § 151, et seq.;*54 *2. Prohibit an employer or any other person covered by the National Labor Relations Act or the*
55 *Railway Labor Act from entering into agreements or engaging in any other activity protected by law; or*56 *3. Be interpreted to interfere with the labor relations of persons covered by the National Labor*

57 *Relations Act or the Railway Labor Act.*