

20104446D

HOUSE BILL NO. 1202

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact § 2.2-4321.2 of the Code of Virginia, relating to contracts with local governments for public works; agreements with labor organizations.*

Patrons—Tran and Hope

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-4321.2 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-4321.2. Public works contract requirements.

A. As used in this section:

"Local government" means any county, city, or town or any school division.

"Project labor agreement" means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific public works project.

"Public works" means the operation, erection, construction, alteration, improvement, maintenance, or repair of any public facility or immovable property owned, used, or leased by a state agency local government.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

B. Except as provided in subsection F or as required by federal law, each state agency *Each local government*, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works paid for in whole or in part by state funds, or when overseeing or administering such procurement, construction, manufacture, maintenance, or operation, shall ensure that neither the state agency nor any construction manager acting on behalf of the state agency shall *may*, in its bid specifications, project agreements, or other controlling documents:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to project labor agreements with one or more labor organizations, on the same or related public works projects; or *and*

2. Otherwise discriminate against *Require* bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to project labor agreements with one or more labor organizations, on the same or other related public works projects.

Nothing in this subsection shall prohibit contractors or subcontractors from voluntarily entering into agreements described in subdivision 1.

C. A state agency issuing grants, providing financial assistance, or entering into cooperative agreements for the construction, manufacture, maintenance, or operation of public works shall ensure that neither the bid specifications, project agreements, nor other controlling documents therefor awarded by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any construction manager acting on behalf of such recipients, shall:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related projects; or

2. Otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related projects.

D. If an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of any of them performs in a manner contrary to the provisions of subsection B or C, the state agency awarding the contract, grant, or assistance shall be entitled to injunctive relief to prevent any violation of this section.

E. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or operator, shall have standing to challenge any bid specification, project agreement, neutrality agreement, controlling document, grant, or cooperative agreement that violates the provisions of this section. Furthermore, such interested party shall be entitled to injunctive relief to prevent any violation of this section.

F. The provisions of this section shall not:

1. Apply to any public-private agreement for any construction or infrastructure project in which the private body, as a condition of its investment or partnership with the state agency, requires that the

INTRODUCED

HB1202

59 private body have the right to control its labor relations policy and perform all work associated with
60 such investment or partnership in compliance with all collective bargaining agreements to which the
61 private party is a signatory and is thus legally bound with its own employees and the employees of its
62 contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C.
63 § 151 et seq., or the Railway Labor Act, 45 U.S.C. § 151 et seq.;

64 2. Prohibit an employer or any other person covered by the National Labor Relations Act or the
65 Railway Labor Act from entering into agreements or engaging in any other activity protected by law; or
66 3. Be interpreted to interfere with the labor relations of persons covered by the National Labor
67 Relations Act or the Railway Labor Act.