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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 57 Session of  
2021

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INTRODUCED BY MARTIN, AUMENT, DiSANTO, PHILLIPS-HILL AND  
STEFANO, JANUARY 20, 2021

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REFERRED TO LABOR AND INDUSTRY, JANUARY 20, 2021

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AN ACT

1 Providing for open contracting by the Commonwealth and its  
2 political subdivisions and their agencies and authorities.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Open  
7 Contracting Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Public body." The Commonwealth or any of its political  
13 subdivisions, or an agency or authority of either.

14 "Public works." Construction, reconstruction, demolition,  
15 alteration or repair work, other than routine maintenance work,  
16 contracted for by a public body.

17 "Successful bidder." A person, partnership or corporation  
18 that has the capability in all respects to fully perform the

1 contract requirements and who has the integrity and reliability  
2 which will assure good faith performance.

3 Section 3. Prohibited practices.

4 Contract specifications issued by public bodies soliciting  
5 bids on public works projects may not include any of the  
6 following:

7 (1) A requirement that a successful bidder or any of its  
8 subcontractors utilize workers:

9 (i) represented by a designated labor organization;

10 or

11 (ii) referred by a designated labor organization.

12 (2) A requirement that a successful bidder's existing  
13 workforce or any of its subcontractors' workforces affiliate  
14 with or pay dues to a labor organization.

15 (3) A requirement that a successful bidder or any of its  
16 subcontractors recognize a labor organization as the  
17 exclusive representative of any of its employees on the  
18 public works project.

19 Section 4. Discrimination prohibited.

20 No public body shall consider or use as a criterion in its  
21 selection process the union or nonunion status of a successful  
22 bidder's workforce.

23 Section 5. Enforcement.

24 (a) General rule.--A party who is aggrieved by an act  
25 committed by a public body in violation of section 3 or 4 may  
26 file an action in a court of competent jurisdiction to enjoin  
27 the act.

28 (b) Damages and attorney fees.--A court of competent  
29 jurisdiction may award damages and reasonable attorney fees to  
30 an aggrieved party that is successful in an action filed under

- 1 subsection (a).
- 2 Section 6. Effective date.
- 3 This act shall take effect in 60 days.