

IN THE SENATE

SENATE BILL NO. 1006

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO RIGHT TO WORK; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER
2 20, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-2013, IDAHO
3 CODE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT IN REGARD TO CONTRACTS
4 FOR CERTAIN PUBLIC WORKS THE STATE OR ANY POLITICAL SUBDIVISION SHALL
5 NOT REQUIRE CERTAIN PAYMENT TO CERTAIN EMPLOYEES, TO PROVIDE FOR EXCEP-
6 TIONS, TO PROVIDE THAT IN REGARD TO CONTRACTS FOR CERTAIN PUBLIC WORKS
7 THE STATE OR ANY POLITICAL SUBDIVISION SHALL NOT REQUIRE THAT A CON-
8 TRACTOR, SUBCONTRACTOR, MATERIAL SUPPLIER OR CARRIER ENGAGED IN PUBLIC
9 WORKS BECOMES A PARTY TO CERTAIN AGREEMENTS, TO PROVIDE FOR STANDING AND
10 TO PROVIDE FOR APPLICATION OF LAWS; AND PROVIDING SEVERABILITY.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
14 maintain and strengthen state law to protect open access to work for all Ida-
15 hoans.

16 SECTION 2. That Chapter 20, Title 44, Idaho Code, be, and the same is
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
18 igned as Section 44-2013, Idaho Code, and to read as follows:

19 44-2013. PUBLIC WORKS -- WAGES. Notwithstanding any other provision
20 found in chapter 10, title 44, Idaho Code, and chapter 57, title 67, Idaho
21 Code, the following shall apply:

22 (1) This act shall be known as the "Open Access to Work Act."

23 (2) For purposes of this section, the following terms have the follow-
24 ing meanings:

25 (a) "Political subdivision" means the state of Idaho, or any county,
26 city, school district, sewer district, fire district, or any other tax-
27 ing subdivision or district of any public or quasi-public corporation
28 of the state, or any agency thereof, or with any other public board,
29 body, commission, department or agency, or officer or representative
30 thereof.

31 (b) "Public works" shall have the same meaning as that provided for
32 "public works construction" in section 54-1901, Idaho Code.

33 (3) (a) Except as provided in subsection (3)(b) of this section or as
34 required by federal or state law, the state or any political subdivi-
35 sion that contracts for the construction, alteration, equipping, furn-
36 nishing, maintenance, repair or improvement of public works shall not
37 require that a contractor, subcontractor, material supplier or carrier
38 engaged in the construction, alteration, equipping, furnishing, main-
39 tenance, repair or improvement of public works pay its employees:

40 (i) A predetermined amount of wages or wage rate; or

41 (ii) A type, amount or rate of employee benefits.

1 (b) Subsection (3)(a) of this section shall not apply when federal law
2 requires the payment of prevailing or minimum wages to persons working
3 on projects funded in whole or in part by federal funds.

4 (4) The state or any political subdivision that contracts for the con-
5 struction, alteration, equipping, furnishing, maintenance, repair or im-
6 provement of public works shall not require that a contractor, subcontrac-
7 tor, material supplier or carrier engaged in the construction, alteration,
8 equipping, furnishing, maintenance, repair or improvement of public works
9 executes or otherwise becomes a party to any project labor agreement, col-
10 lective bargaining agreement, prehire agreement or any other agreement with
11 employees, their representatives or any labor organization as a condition
12 of bidding, negotiating, being awarded or performing work on a public works
13 project.

14 (5) Any interested party, which shall include a bidder, offeror, con-
15 tractor, subcontractor or taxpayer, shall have standing to challenge any bid
16 award, specification, project agreement, controlling document, grant or co-
17 operative agreement that violated the provisions of this section, and such
18 interested party shall be awarded costs and attorney's fees in the event that
19 such challenge prevails.

20 (6) The provisions of this section apply to any contract executed after
21 July 1, 2011.

22 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
23 to be severable and if any provision of this act or the application of such
24 provision to any person or circumstance is declared invalid for any reason,
25 such declaration shall not affect the validity of the remaining portions of
26 this act.

LEGISLATURE OF THE STATE OF IDAHO

Sixty-first Legislature

First Regular Session - 2011

Legislative Co-sponsors

RS20077

(S 1006)

Senator Russell Fulcher
Senator Robert Geddes
Senator John Goedde
Senator Curt McKenzie
Senator Monty Pearce

Representative Clifford Bayer
Representative Max Black
Representative Brent Crane
Representative Marv Hagedorn
Representative Frank Henderson
Representative Ken Roberts