

Committee Report

CONSENT CALENDAR

February 8, 2017

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 446,

AN ACT relative to state construction contracts. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Mark Proulx

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 446
Title:	relative to state construction contracts.
Date:	February 8, 2017
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill is an unnecessary and burdensome new government regulation, which seeks to tie the hands of our state contracting agencies, making it more difficult for the state to get the best deal for our taxpayer dollars. What's more, this bill is a solution in search of a problem. The bill's sponsor admitted in testimony that the practice this bill seeks to ban, so-called project labor agreements, have literally never been utilized in New Hampshire and are not planned to be. The committee finds that preemptively banning their use would be imprudent, and would take a potentially useful tool out of our state's toolkit. Finally, the committee finds that adding a new, restrictive law to the books would be inappropriate at a time when we should be seeking to reduce the regulatory burden and eliminate red tape.

Vote 17-2.

Rep. Mark Proulx
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 446, relative to state construction contracts. **INEXPEDIENT TO LEGISLATE.**

Rep. Mark Proulx for Executive Departments and Administration. This bill is an unnecessary and burdensome new government regulation, which seeks to tie the hands of our state contracting agencies, making it more difficult for the state to get the best deal for our taxpayer dollars. What's more, this bill is a solution in search of a problem. The bill's sponsor admitted in testimony that the practice this bill seeks to ban, so-called project labor agreements, have literally never been utilized in New Hampshire and are not planned to be. The committee finds that preemptively banning their use would be imprudent, and would take a potentially useful tool out of our state's toolkit. Finally, the committee finds that adding a new, restrictive law to the books would be inappropriate at a time when we should be seeking to reduce the regulatory burden and eliminate red tape. **Vote 17-2.**

Original: House Clerk

Cc: Committee Bill File

Altilio, Iris

From: Carol McGuire <mcguire4house@gmail.com>
Sent: Wednesday, February 08, 2017 1:46 PM
To: Altilio, Iris
Subject: Fwd: HB446 blurb

----- Forwarded message -----

From: <nhcisd@aol.com>
Date: Wed, Feb 8, 2017 at 1:35 PM
Subject: Fwd: HB446 blurb
To: <carol@mcguire4house.com>, <mcguire4house@gmail.com>

Sent from AOL Mobile Mail

-----Original Message-----

From: Howell Montgomery <hmontgomery33@gmail.com>
To: Mark Proulx <nhcisd@aol.com>
Sent: Wed, Feb 8, 2017 10:26 AM
Subject: Re: HB446 blurb

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>
> This bill is an unnecessary and burdensome new government regulation, which seeks to tie the hands of our state contracting agencies, making it more difficult for the state to get the best deal for our taxpayer dollars. What's more, this bill is a solution in search of a problem. The bill's sponsor admitted in testimony that the practice this bill seeks to ban, so-called project labor agreements, have literally never been utilized in New Hampshire and are not planned to be. The committee finds that preemptively banning their use would be imprudent, and would take a potentially useful tool out of our state's toolkit. Finally, the committee finds that adding a new, restrictive law to the books would be inappropriate at a time when we should be seeking to reduce the regulatory burden and eliminate red tape.

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Carol

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 446

BILL TITLE: relative to state construction contracts.

DATE: February 8, 2017

LOB ROOM: 306

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Proulx

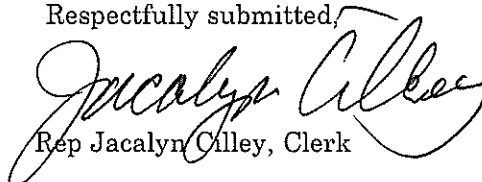
Seconded by Rep. Woitkun

Vote: 17-2

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Jacalyn Cilley, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 446

BILL TITLE: relative to state construction contracts.

DATE: 2/8/17

LOB ROOM: 306

MOTION: (Please check one box)

- OTP ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. Proulx Seconded by Rep. Waitkun Vote: 17-2

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

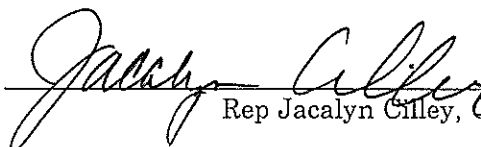
- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted:


Rep Jacalyn Cilley, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/17/2017 8:40:21 AM
Roll Call Committee Registers
Report

2017 SESSION

ED&A

Bill #: 413446 Title: _____

PH Date: 1/25/17 Exec Session Date: 2/8/17

Motion: IT1 Amendment #: _____

MEMBER

YEAS

17

NAYS

2

McGuire, Carol M. Chariman	✓	
Sytek, John Vice Chairman	✓	
Hansen, Peter T.	✓	
Beaudoin, Steven P.	✓	
Proulx, Mark L.	✓	
Hoell, J.R.	✓	✓
Kaczynski, Thomas L.	✓	✓
Woitkun, Steven J.	✓	
Brewster, Michael A.	✓	
Marsh, Henry A.	✓	
Smith, Ryan D. Edward	✓	
Gagnon, Raymond G.	✓	
Schmidt, Peter B.		
Jeudy, Jean L.	✓	
Sullivan, Daniel J.	✓	
Goley, Jeffrey P.	✓	
Cilley, Jacalyn L. Clerk	✓	
Roberts, Carol R.	✓	
Campion, Polly Kent	✓	
Sandler, Catt	✓	
TOTAL VOTE:		

17

2

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 446

BILL TITLE: relative to state construction contracts.

DATE: January 25, 2017

LOB ROOM: 306 **Time Public Hearing Called to Order:** 1:15 p.m.

Time Adjourned: 2:50 p.m.

Committee Members: Reps. McGuire, Sytek, Hansen, Beaudoin, Proulx, Hoell, Kaczynski, Woitkun, Brewster, H. Marsh, Gagnon, P. Schmidt, Jeudy, D. Sullivan, Goley, Roberts, Schuett, Campion and Cilley

Bill Sponsors:

Rep. Seaworth

Rep. L. Turcotte

Sen. Reagan

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Brian Seaworth, prime sponsor, introduced the bill and explained the purpose and details of the bill. This proposed bill was legislation introduced last year in 2016 and sent to interim study. The proposed recommendation from the study committee was to submit legislation along the lines of a partisan vote.

Rep Seaworth explained the definition of project labor agreements. He said that PLAs do not drive up costs. He contends, however, that companies with PLAs drive out competition and thus, drive up costs.

Rep Seaworth discussed the fact that the topic is one relating to both Federal and State projects. Argues that the administration in power at the time of projects tends to insist or not on PLAs. Legislation is preemptive in nature. The State does not currently require PLAs so this will not change. However, if the Federal government or the use of federal monies requires PLAs, the State can send the statement of opposition.

Rep Mark MacKenzie, Hillsborough 17 opposes the bill. He explained the fact that project labor agreements have been used across the country and around the world. These have worked for some of most sophisticated projects the world with the most experienced professional teams. He also explained that projects that prohibit PLAs become a "free for all" in which wages and work conditions may be questionable. Rep MacKenzie contends that this is preemptive and a way to preclude unionized workers.

Gary Abbott, Exec VP, Associated General Contractors supports the bill. In New Hampshire, 90% of work is done by open shop. His association represents both open shops and union shops. He believes the bill is much simpler than it may appear. It is his contention that the only thing the bill actually does is to say PLAs cannot be required, thus opening up a potential bid to union and open shops.

* Huck Montgomery, representing the NH Building Trades Council opposes the bill. He read the letter he submitted. See the submission of the letter for content. He explained PLAs. He offered data that there has never been a required PLA on a state project. The only project requiring a PLA was on the federally funded job core. However, even on that job it was retracted.

* Mark Holden, Associated Builders and Contractors supports the bill. He submitted written testimony and elaborated upon some key points. He explained how there was a protest about the job in Manchester in the Job Core building requiring a PLA. They prevailed in their protest and the PLA requirement was removed. Mr. Holden explained the origins and evolution of project labor agreements. He contends that they began as a way of harmonizing labor factions; today, he argues

that these are now being used as a market capture strategy.

Chris Griffith, Concord resident and brick layer appears to oppose the bill. He says he has worked on projects with PLAs and ones without. He offered several insights about the positive affects of PLAs. He feels the bill limits choices, is not what would be in the interests of the people of New Hampshire, and offers unnecessary regulation. It is about the right to choose.

The following people registered opinions but did not speak:

Rep Len Turcotte, Strafford #4 supports the bill.

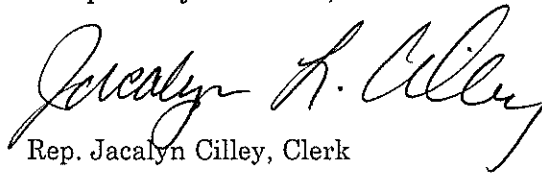
Will Anderson supports the bill.

Michael Sara opposes the bill.

Denis Beaudoin, IBEW opposes the bill.

Jay Ward opposes the bill.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jacalyn R. Cilley". The signature is written in black ink and is positioned above the printed name.

Rep. Jacalyn Cilley, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 446

BILL TITLE: relative to state construction contracts.

DATE: 1/25/17

ROOM: 306

Time Public Hearing Called to Order: 1:15 pm.

Time Adjourned: 2:50 pm.

(please circle if present)

Committee Members: Reps. McGuire, Sytek, Hansen, Beaudoin, Proulx, Hoell, Kaczynski, Woitkun, Brewster, H. Marsh, R. Smith, Gagnon, P. Schmidt, Jeudy, D. Sullivan, Goley, Roberts, Campion, Sandler and Cilley

Bill Sponsors:

Rep. Seaworth

Rep. L. Turcotte

Sen. Reagan

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Brian Seaworth, prime sponsor

Rep. ~~Mark~~ Mackenzie

Gary Abbott, Exec. VP Associated Gen'l Contractors

* Herb Montgomery, N.H. Building & Construction
Trades Council - distributed written
material

2 * Mark Holden, Associated Builders & Contractors -

submitted written testimony

Chris Griffith, Concord residents & Brick
layers

HB 466, Relation to state construction contracts

Rep. Brian Stewart, bill sponsor, introduced bill and explained the purpose and details of the bill.

The proposed new legislation introduced last year in 2016 and sent to interim study. The proposed recommendation from the study committee was to submit legislation along the lines of a past year vote.

He explained the definition of project labor agreements. He said that OTH's do not drive up costs. He contends, however, that companies with OTH's drive up cost competition and thus, drive up costs.

Rep. Stewart discussed the fact that the topic is one relating to both federal and state projects. Arguing that the administration is bent at the time of project work to meet on OTH's.

Legislation to pre-emptive in nature. The state does not currently require OTH's so the bill not change. However, if the federal government or the use of federal money require OTH's, the state can void the relationship of opposition.

Group Mark Mackenzie

Opposes the bill.

Explains the fact that voters later

agreements have been made across the country and around the world have worked on some

of most experimental projects the world

with the most experienced professional team.

The also explained that project that

probably GAO's become a "free for all"

in which wages and work conditions

may be questionable.

Rep. Mackenzie contends that the bill is pre-emptive and a way to provide emergency

relief.

Ray Albert, Chm. of the General Contractors

the support the bill.

and N. K. 90% of the work is done

by open shop.

the association represents both

open shops and union shops.

He believes the bill is much

simpler than it may appear. He is his

contention that the only thing the bill

actually does is to say GAO's cannot

be required, thus opening up a potential

bid to union and open shops.

Mark Montgomery, representing the NH Building Trades Council

Read the letter he submitted. See the submission of the letter for content.

He explained GFA's. He offered data that there has never been a required GFA on a state project. The only project requiring a GFA was on the federally funded job core. However, even on that job it was retracted.

Mark Holden, Associated Builders & Contractors Supports the bill. Submitted written testimony and elaborated upon some key points.

He explained how there was a protest about the job in Manchester on the Job Core building requiring a GFA. They prevailed in their protest and the GFA requirement was removed.

He explained the origins and evolution of project labor agreements. He contends that they began as way of harmonizing labor factions. Today he argues that these are now being used as a market capture strategy.

Chris Griffith - Concord resident & brick layer

~~Survey~~ Appears to oppose the bill.

He says he has worked on projects with PLAs and ones without. He offered several insights about the positive effects of PLA.

Feels the bill limits choices, is not what would be in the interests of the people of N.H. and offers unnecessary regulation. It is about the right to choose.

Testimony

New Hampshire Construction Workers and Contractors OPPOSE HB446

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- Project Labor Agreements (PLAs), also known as Community Workforce Agreements, are pre-hire collective bargaining agreements that establish the terms and conditions of employment for a specific construction project.
- State contracting agencies in New Hampshire currently have the freedom to utilize Project Labor Agreements if they choose. However, according to Deputy Director of Administrative Services Mike Connor, the state of New Hampshire has never utilized a PLA on a state funded construction project.
- HB446 would deny state agencies the ability to utilize PLAs, which are a market-based, project efficiency tool to ensure “on time, on budget” results for their construction projects; as well as to ensure that LOCAL workers are getting the jobs created by local tax investments.
- It makes NO SENSE to take this potentially valuable tool out of New Hampshire’s toolkit. Not only is this bill a “solution in search of a problem,” this bill could have serious unintended consequences by tying state agencies’ hands in the future.
- Any qualified contractor can bid to work under a PLA on a public project, both union and non-union. In fact, Project Labor Agreements level the playing field for contractors because all bidders must pay the same labor costs. That means the winning bidder must demonstrate cost savings that truly add value, rather than simply paying their workers less.
- Anyone willing to work under the terms of the agreement is free to apply for work on the project. In fact, federal law prohibits employers from discriminating against employees based on whether they are union members.
- Under a PLA a worker does not have to become a member of a union to obtain health and pension benefits.
- Opponents of Community Workforce Agreements have argued that PLAs increase project costs, but studies by UCLA, Cornellⁱⁱⁱ, the University of Utahⁱⁱⁱ, the University of Maine^{iv} and other leading academics have concluded that there is simply no evidence to back up this conclusion, and that the studies upon which the critics of PLAs routinely rely fail to take into account other factors that influence a project’s costs.
- If PLAs did drive up the cost of construction, then the question that must be asked is why do so many cost-conscious and profit-oriented corporations use them repeatedly?
- Another bogus argument against PLAs is that they limit the supply of bidders on a project. While some traditionally non-union contractors may, on an ideological basis, choose not to bid for work under a PLA, the experience of on many large-scale projects – including the Boston Harbor Project, the Port of Oakland, and the Southern Nevada Water Authority’s Improvement Project – show that many non-union contractors bid and work on projects covered by PLAs. In fact, on the two-phase Nevada project, there were more bidders on the phase conducted under the PLA than on an earlier phase, conducted before the PLA was negotiated.
- Most PLA users speak to the economic benefits that come from having access to an uninterrupted supply of qualified workers, being able accurately to predict labor costs, utilizing expeditious mechanisms for resolving disputes, and creating labor-management cooperation committees to promote safe work practices on the job.
- Toyota Motor Corporation has built every one of its North American manufacturing facilities under a PLA, and in a February 25, 2011 letter to the Building and Construction Trades Department, company President Tetsuo Agata proclaimed that “Large-scale construction projects pose unique challenges for corporations such as ours

that maintain the highest standards of safety, efficiency, and productivity. To address these challenges, Toyota has consistently employed project labor agreements for our major construction projects, and we could not have been more pleased with the results."

- PLAs continue to be utilized by the profit-oriented and cost-conscious private sector because of one paramount rationale: THEY WORK!
- Even Wal Mart – the epitome of a cost-conscious, efficiency-oriented corporation – is increasingly turning to PLAs for the construction of its retail facilities. And if they are good enough for a company like Wal Mart, PLAs might be a tool New Hampshire could want to employ at some point in the future.
- In 2010 alone, and in the midst of the most severe construction depression in a generation, over 150 public and private PLAs were signed with an aggregate total in excess of \$100 billion.

Provided by the New Hampshire Building and Construction Trades Council

For more information please contact Huck Montgomery at huck@granite-roots.com or visit www.PLAsWork.org

ACADEMIC CITATIONS:

ⁱ <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1021&context=reports>

ⁱⁱ <http://www.plaswork.org/CWA/media/Documents/resources/Cornell-PLAs-in-NY-II.pdf>

ⁱⁱⁱ http://econ.utah.edu/research/publications/2015_03.pdf

^{iv} <https://umaine.edu/ble/wp-content/uploads/sites/181/2011/01/Protect-Labor-Agreements.pdf>



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Associated Builders and Contractors Prepared Testimony
HB446, relative to state construction contracts.
Executive Departments and Administration Committee
Wednesday, January 24, 2017

Contact: Mark Holden, President 603 226 4789, mholden@abcnhvt.org

Associated Builders and Contractors represents 230 commercial/industrial construction industry firms employing approximately 15,000 employees performing project throughout New Hampshire. We support HB446.

As stated in the language of the bill, fair and open competition in state construction contracting is necessary to provide for more economical, nondiscriminatory, neutral and efficient procurement of construction services. Labor affiliation, or lack thereof should not be part of the selection criteria for the award of state construction contracts and project labor agreements should not be included in the project solicitation process.

A Project Labor agreement (PLA) is a collective bargaining agreement unique to the construction industry that typically requires companies to agree to recognize unions as the representatives of their employees on that job, use the union hiring hall to obtain workers, follow union work rules and pay into union benefit and multi-employer pension plans. Because they are unfamiliar with union hiring hall practices, work rules and conditions and the impact of required fund contributions, when mandated, PLAs discourage competition from nonunion contractors and their employees, who comprise over 90% of the NH private construction workforce. Multiple studies of hundreds of taxpayer-funded construction projects found PLA mandates increase the cost of construction between 12 percent and 18 percent compared to similar non-PLA projects. PLAs on publicly funded projects have resulted in litigation, reduced competition, increased costs, needless delays and poor local hiring outcomes.

HB446 will prevent state agency construction contracts from requiring contractors to sign an anti-competitive and costly PLA as a condition of winning a state assisted construction contract. These measures have already been upheld in the courts and would allow contracts to be awarded to contractors that voluntarily enter into PLAs.

A total of 22 states—20 since 2011—have passed similar measures allowing the free market—not the government—to determine if a PLA is appropriate for a construction project. Simply put, HB446 will assure open competition, a level playing field in the procurement of state construction contracts, increase competition, help small businesses grow, curb construction costs and spread the job-creating benefits of state funded contracts throughout the entire construction industry.

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Points to consider:

1. PLAs drive up costs

- Taxpayers, as the owners of publicly funded construction projects, deserve the best possible product at the best possible price.
- Numerous studies show that PLA mandates can increase construction costs between 12 and 18 percent.
- PLAs drive up costs by discouraging contractors who are not signatory to a union from bidding on public projects.
- PLAs force contractors to use unfamiliar union rules, which drives up costs.
- PLAs require all non-union contractors to pay into union benefit and pension funds, from which their employees will never be eligible for, in addition to the existing employer plans they may already pay into.

2. PLAs are anti-competitive

- PLAs are special interest carve-outs designed to increase union membership and contributions.
- By requiring a contractor and/or subcontractor to recognize unions as the representatives of their employees, PLAs discriminate against the nearly 92.3% of the NH construction force who choose not to join a union (unionstats.com).
- PLAs discriminate against women- and minority-owned construction businesses and their workers, who traditionally have been under-represented in unions.

3. PLAs harm local workers

- PLAs discourage qualified local construction workers that do not belong to a union from working on projects in their own communities and paid for by their own tax dollars.
- Nearly all PLAs require contractors to get most or all of their workers from union hiring halls, where non-local union workers are placed on jobs before local nonunion workers.
 - For the few nonunion employees permitted to work on a PLA jobsite, they never see any of the benefits from contributions made to union pension and benefit plans by their employer unless they decide to join a union and remain with the union until vested. PLAs are a windfall for the unions but not for the nonunion worker.
- PLAs require firms to obtain apprentices exclusively from union apprenticeship programs. Participants in other federal and state-approved nonunion apprenticeship programs cannot work on a job covered by a PLA and are excluded from work in their hometowns.

PLA/NoPLA Bid Results
Manchester, NH, DOL Job Corps Center

An Apples-to-Apples Comparison of Bid Results for a Federal Project Bid With and Without a Government-Mandated Project Labor Agreement (PLA)					
Manchester, N.H., U.S. Department of Labor Job Corps Center					
		<i>With PLA</i>	<i>Without PLA</i>		
Firm	Firm Location	3/18/12 bids	2/14/13 bids	Difference	Difference
JT Construction Enterprises*	Clearwater, FL	\$37,872,000	\$34,272,000	-9.51%	-\$3,600,000
E. Amanti & Sons	Salem, MA	\$38,297,000	DNB		
Maron Construction	Providence, RI	\$40,987,000	\$35,558,000	-13.25%	-\$5,429,000
Eckman Construction	Bedford, NH	DNB	\$31,635,000		
Nauset Construction	Needham, MA	DNB	\$32,795,000		
Systems Contracting	Plymouth, MA	DNB	\$34,400,000		
KMK-DJI Joint Venture	Eliot, ME	DNB	\$34,488,276		
JCN Construction	Manchester, NH	DNB	\$36,746,000		
Anthony & Gordon Construction	Knoxville, TN	DNB	\$37,675,000		
WolfCreek Federal Services Inc.	Anchorage, AK	DNB	\$38,080,777		
<i>Avg. With PLA (3 bidders)</i>		\$39,052,000			
<i>Avg. Without PLA (9 bidders)</i>			\$35,072,228		
<i>Avg. Percent Difference (2 bidders bid both)</i>				-10.19%	
<i>Avg. Difference (2 bidders bid both)</i>					-\$3,979,772
<i>Low Bidder With PLA</i>		\$37,872,000			
<i>Low Bidder Without PLA</i>			\$31,635,000		
<i>Percent Difference</i>				-16.47%	
<i>Amount Difference</i>					-\$6,237,000
*Bid as FedConJV of Clearwater, FL in 2nd Round of bidding					
DNB = Did Not Bid					
All bid numbers obtained from DOL bid opening conference calls. DOL does not typically publish non-winning bid results on FBO.gov.					
Source:					
Sept. 2009 Solicitation Canceled (PLA mandate - no bids submitted due to bid protest): https://www.fbo.gov/spg/DOL/OASAM/Washington/DOL099RB20820/listing.html					
Jan. 2012 Solicitation Canceled (PLA mandate - 3 bids opened): https://www.fbo.gov/notices/b654f33ddbe018dc03565ca9066c89f0					
Oct. 2012 Solicitation (No PLA mandate - 9 bids opened): https://www.fbo.gov/notices/7c93056721a053701c664ba3cb97006c					
Learn more at www.TheTruthAboutPLAs.com					

3-4 (2)



January 24, 2017

Dear Representatives,

Please vote HB446 "Inexpedient to Legislate." As a small business owner and an employer of highly trained expert electricians who are fully licensed by the state of New Hampshire, I oppose new government regulations like HB446. Now is not the time to add more red tape to the state contracting process.

HB446 will tie the hands of state contracting agencies, and will make it harder for taxpayers to get the best deal for their dollar. State agencies should have the freedom and flexibility to use every tool available to them to make sure taxpayer-funded construction projects are completed on time and on budget. Eliminating a potentially important tool like Project Labor Agreements doesn't make good sense.

Furthermore, I believe our state should do more to keep taxpayer money in our local economy. According to a 2015 study from the Keystone Research Group, New Hampshire loses more taxpayer money to out-of-state construction contractors than any other state in New England. Project Labor Agreements are one way to ensure New Hampshire recaptures a greater share of our state-funded construction dollars.

HB446 won't help create jobs or grow our economy. On the contrary, HB446 will make it harder for contractors like me to grow our businesses in New Hampshire. Please oppose this unnecessary, burdensome, and wrongheaded legislation.

Thank you for your consideration.

Sincerely,

David A. Ayer
Owner
Ayer Electric, Inc.

Bill as
Introduced

HB 446 - AS INTRODUCED

2017 SESSION

17-0409
05/03

HOUSE BILL **446**

AN ACT relative to state construction contracts.

SPONSORS: Rep. Seaworth, Merr. 20; Rep. L. Turcotte, Straf. 4; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill provides that project labor agreements shall not be included in state agency construction contracts.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through-]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to state construction contracts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings. The general court finds that fair and open competition in state construction
2 contracts is necessary to provide for more economical, nondiscriminatory, neutral, and efficient
3 procurement of construction related goods and services by this state and political subdivisions of
4 this state as market participants. Therefore, to prevent discrimination against state bidders,
5 offerers, contractors, or subcontractors based upon labor affiliation or the lack thereof, the general
6 court declares that project labor agreements should not be included as part of the competitive bid
7 process or the award of large state construction contracts.

8 2 New Chapter; State Construction Contracts. Amend RSA by inserting after chapter 280 the
9 following new chapter:

10 CHAPTER 280-A

11 STATE CONSTRUCTION CONTRACTS

12 280-A:1 Definitions. In this chapter:

13 I. "Agency" means any department, commission, board, institution, bureau, office, or other
14 entity, by whatever name called, established in the state constitution, statutes, session laws, or
15 executive orders.

16 II. "Construction" means the act, trade, or process of building, erecting, constructing,
17 adding, repairing, remodeling, rehabilitating, reconstructing, altering, converting, improving,
18 expanding, or demolishing of a building, structure, facility, road, or highway, and includes the
19 planning, designing, and financing of a specific construction project.

20 III. "Project labor agreement" means any pre-hire collective bargaining agreement with one
21 or more labor organizations that establishes the terms and conditions of employment for a specific
22 construction project.

23 280-A:2 Certain Labor Requirements Not to be Imposed on Contractor or Subcontractor.

24 I. Commencing July 1, 2018, no agency or construction manager acting on behalf of an
25 agency, seeking a construction bid solicitation, awarding a construction contract, or obligating funds
26 to a construction contract, shall include the following in the bid specifications, the bid requests, the
27 project agreements, or any other controlling documents for the construction project:

28 (a) A requirement or prohibition that a bidder, offerer, contractor, or subcontractor
29 must enter into or adhere to a project labor agreement;

30 (b) A term, clause, or statement that implies, either directly or indirectly, that a bidder,
31 offerer, contractor, or subcontractor must enter into or adhere to a project labor agreement; or

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1 (c) A term, clause, or statement that rewards or punishes a bidder, offerer, contractor,
2 or subcontractor for becoming or remaining, or refusing to become or remain a signatory to, or for
3 adhering or refusing to adhere to, a project labor agreement.

4 II. This section shall not:

5 (a) Prohibit an agency from awarding a contract to a bidder, contractor, or
6 subcontractor who enters into or who is party to an agreement with a labor organization, if being or
7 becoming a party or adhering to an agreement with a labor organization is not a condition for award
8 of the contract and if the agency does not discriminate against a bidder, contractor, or subcontractor
9 in the awarding of that contract based upon the status as being or becoming, or the willingness or
10 refusal to become, a party to an agreement with a labor organization.

11 (b) Prohibit a bidder, contractor, or subcontractor from voluntarily entering into or
12 complying with an agreement entered into with one or more labor organizations in regard to a
13 contract with an agency.

14 (c) Prohibit employers or other parties from entering into agreements or engaging in
15 any other activity protected by the National Labor Relations Act, 29 U.S.C. sections 151 to 169.

16 (d) Interfere with labor relations of parties that are left unregulated under the National
17 Labor Relations Act, 29 U.S.C sections 151 to 169.

18 (e) Prohibit an agency from including other wage and benefit requirements as part of
19 the bid specifications, project agreement, or other controlling documents for the construction
20 project.

21 280-A:3 Exemptions. The commissioner or head of the agency may exempt a particular project,
22 contract, or subcontract from the requirements of any or all of the provisions of RSA 280-A:2 if he or
23 she finds, after public notice and a hearing, that special circumstances require an exemption to
24 avert an imminent threat to public health or safety. A finding of special circumstances under this
25 section may not be based on the possibility or presence of a labor dispute concerning the use of
26 contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements
27 with one or more labor organizations or concerning employees on the project who are not members
28 of or affiliated with a labor organization.

29 3 Effective Date. This act shall take effect January 1, 2018.