

# SENATE BILL REPORT

## SB 5168

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As of January 29, 2017

**Title:** An act relating to prohibiting the use of mandatory project labor agreements.

**Brief Description:** Prohibiting the use of mandatory project labor agreements.

**Sponsors:** Senator Ericksen.

**Brief History:**

**Committee Activity:** State Government: 1/27/17.

**Brief Summary of Bill**

- Prohibits a state agency or municipality from using mandatory project labor agreements when seeking a public works bid solicitation, awarding a public works contract, or obligating funds to a public works contract.
- Prohibits a local government, a port district, or a regional transit authority from using mandatory project labor agreements in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

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### SENATE COMMITTEE ON STATE GOVERNMENT

**Staff:** Melissa Van Gorkom (786-7491)

**Background:** National Labor Relations Act (NLRA). The NLRA, enacted by Congress in 1935, guarantees the rights of private sector employees to organize into trade unions, engage in collective bargaining for better terms and conditions at work, and take collective action if necessary.

The NLRA authorizes, though does not mandate, the use of project labor agreements. The NLRA prohibits employers from interfering with an employee's right to organize, join, or assist a union; engage in collective bargaining; or engage in protected, concerted activities. Protected concerted activities are activities workers may partake in without fear of employer retaliation such as filing a charge with the NLRB.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

This does not apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work. It is not an unfair labor practice for an employer engaged primarily in the building and construction industry to make an agreement covering employees engaged in the building and construction industry with a labor organization of which building and construction employees are members.

Project Labor Agreement (PLA). A PLA is a pre-hire collective bargaining agreement with one or more labor organizations, generally made between building trade unions and contractors, that establishes the terms and conditions of employment for a specific construction project.

Public Works. Under current Washington State statute, public work means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality. All public works, including maintenance when performed by contract, shall comply with prevailing wage requirements. A prevailing wage is an hourly wage paid to employees performing similar work. Determinations of prevailing rate of wage are made by the industrial statistician of the Department of Labor and Industries.

**Summary of Bill:** A state agency or municipality is prohibited from:

- using any provision dealing with project labor agreements in a bid specification, bid request, project agreement or any other controlling document for a public works project; and
- awarding a grant, tax abatement or tax credit for a public works project that is conditioned upon a requirement that the awardee include language concerning a requirement, prohibition, term, clause or statement regarding project labor agreements in a controlling document.

The head of a state agency or municipality may exempt a particular project if it finds, after public notice and a hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety.

A local government, a port district, or a regional transit authority is prohibited from using mandatory project labor agreements in all public works competitive bid processes and as a condition of any grant, tax abatement, or tax credit.

Private owners, bidders, contractors, or subcontractors may voluntarily enter into or comply with project labor agreements.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2017.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: PLAs should not be mandated by a government entity. A contractor should be free to voluntarily adopt a PLA if it would help promote economy and efficiency in contracting. This bill does not eliminate PLAs; it prohibits state and local government from mandating PLAs. Public mandated PLAs can prohibit participation by limiting the number of contractors that bid on a project. A mandated PLA harms taxpayers by limiting the amount of competition and increasing costs on projects. Labor unions are the only entities that benefit from a mandated PLA.

CON: PLA is a project efficiency tool to ensure on time, on budget results for projects. Any qualified contractor can bid on these projects. Anyone willing to work under the contract is allowed to participate under the contract. The worker is not required to become a part of the union to participate in a PLA. A PLA does not increase the costs for construction and are used by many corporations. Having a PLA option should not be eliminated, sometimes a PLA may be a good idea and sometimes it may not be.

**Persons Testifying:** PRO: Christine Brewer, Associated General Contractors of Washington; Wendy Novak, Associated Builders & Contractors; Karen Say-Valadez, Saybr Contractors, Inc.; Maxford Nelsen, Freedom Foundation.

CON: Neil Hartman, Washington State Building & Construction Trades Council; Larry Stevens, NECA, MCAWW.

**Persons Signed In To Testify But Not Testifying:** No one.