



Greg Schwab

*Final Analysis*  
*Legislative Service Commission*

**Am. S.B. 109**  
124th General Assembly  
(As Passed by the General Assembly)

**Sens. Nein, Mumper**

**Reps. Olman, Krupinski, Cirelli, G. Smith, Flowers, Schmidt, Allen, Coates, Latta, Sferra, Patton, Hartnett, Fessler, Hollister, Calvert**

**Effective date: \***

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**ACT SUMMARY**

- Prohibits a state or local public authority, in issuing an invitation for bids or a request for proposals for a contract with the public authority for services, materials, or public improvements, from requiring that any bond or insurance policy required under the contract be furnished by or acquired from a particular surety or insurance company or a particular agent or broker.
- Authorizes the commencement of a civil action for injunctive relief against a public authority for violation of this prohibition.

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**CONTENT AND OPERATION**

Prior to this act, the law on bidding for public contracts did not prohibit a state or local public authority, in inviting bids or proposals for a contract with the public authority for services, materials, or public improvements, from requiring that any bond or insurance under the contract be acquired from a particular company or a particular agent or broker. The act establishes such a prohibition.

The act specifically prohibits an officer, employee, or other agent of a public authority, in issuing an invitation for bids or a request for proposals for a contract with the public authority for the rendering of services or the supplying of

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*\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

materials, or for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement, from requiring, either directly or indirectly, that any bid bond, performance bond, payment bond, or other bond, or any insurance policy, required under the contract be furnished by or acquired from a particular surety or insurance company or a particular agent or broker. If a public authority is self-insured, however, this prohibition does not apply to any insurance policy entered into in connection with such contracts, although the prohibition remains applicable to bonds. (Sec. 9.315(B) and (C).)

For purposes of the act, "**public authority**" is defined as (1) the state or a county, township, municipal corporation, school district, or other political subdivision of the state or (2) any public agency, authority, board, commission, instrumentality, or special district of the state or of a county, township, municipal corporation, school district, or other political subdivision of the state. A "**self-insured public authority**" is defined as a public authority that has been granted the privilege to self-insure a construction project against workers' compensation liability by the Administrator of Workers' Compensation. (Sec. 9.315(A).)

A person that is likely to be damaged by a violation of the act's prohibition is permitted to commence a civil action for injunctive relief against the public authority. The act allows the court of common pleas involved in that action to grant injunctive relief based on the principles of equity and on the terms that the court considers reasonable, and to award reasonable attorney's fees and court costs to the prevailing party. Proof of monetary damage or loss of profits is not required for a civil action brought under the act. (Sec. 9.316.)

The act applies only with respect to contracts that are entered into on or after the act's effective date (Section 2).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-09-01	p. 365
Reported, S. Insurance, Commerce & Labor	06-05-01	pp. 610-611
Passed Senate (33-0)	06-06-01	p. 625
Reported, H. Insurance	10-30-01	pp. 1041-1042
Passed House (99-0)	01-15-02	pp. 1228-1229
Senate concurred in House amendments (33-0)	01-16-02	p. 1319

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