

Senate Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 23

# **SENATE BILL 1403**

AN ACT

AMENDING SECTIONS 34-321 AND 40-360.06, ARIZONA REVISED STATUTES; RELATING TO  
EMPLOYEES AND PUBLIC WORKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-321, Arizona Revised Statutes, is amended to  
3 read:

4 34-321. Public policy; prevailing wage contract prohibited;  
5 definitions

6 A. The public interest in the rates of wages paid under public works  
7 contracts transcends local or municipal interests and is of statewide  
8 concern.

9 B. Agencies and political subdivisions of this state, ~~including~~  
10 ~~charter cities~~, shall not by regulation, ordinance or in any other manner  
11 require public works contracts to contain a provision requiring the wages  
12 paid by the contractor or any subcontractor to be not less than the  
13 prevailing rate of wages for work of a similar nature in the state or  
14 political subdivision where the project is located.

15 C. AGENCIES AND POLITICAL SUBDIVISIONS OF THIS STATE SHALL NOT REQUIRE  
16 IN ANY PUBLIC WORKS CONTRACTS THAT A CONTRACTOR, SUBCONTRACTOR, MATERIAL  
17 SUPPLIER, OR CARRIER ENGAGED IN THE CONSTRUCTION, MAINTENANCE, REPAIR OR  
18 IMPROVEMENT OF PUBLIC WORKS, NEGOTIATE, EXECUTE OR OTHERWISE BECOME A PARTY  
19 TO ANY PROJECT LABOR AGREEMENT OR OTHER AGREEMENT WITH EMPLOYEES, EMPLOYEES'  
20 REPRESENTATIVES OR ANY LABOR ORGANIZATION AS A CONDITION OF OR A FACTOR IN  
21 BIDDING, NEGOTIATING, BEING AWARDED OR PERFORMING WORK ON A PUBLIC WORKS  
22 CONTRACT. THIS SUBSECTION DOES NOT:

23 1. PROHIBIT PRIVATE PARTIES FROM ENTERING INTO INDIVIDUAL COLLECTIVE  
24 BARGAINING RELATIONSHIPS.

25 2. REGULATE OR INTERFERE WITH ACTIVITY PROTECTED BY LAW, INCLUDING THE  
26 NATIONAL LABOR RELATIONS ACT.

27 ~~C.~~ D. ~~It~~ FOR THE PURPOSES OF this section:

28 1. "AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1001.

29 2. "POLITICAL SUBDIVISION" MEANS A CITY, CHARTER CITY, TOWN, COUNTY,  
30 SCHOOL DISTRICT, COMMUNITY COLLEGE DISTRICT, MULTI-COUNTY WATER CONSERVATION  
31 DISTRICT, INDUSTRIAL DEVELOPMENT AUTHORITY OR SPECIAL TAXING DISTRICT  
32 ESTABLISHED PURSUANT TO TITLE 48 THAT IS PRIMARILY SUPPORTED BY TAXES.

33 3. "PROJECT LABOR AGREEMENT" MEANS ANY PRE-HIRE, COLLECTIVE  
34 BARGAINING, MODEL CONSTRUCTION OR SIMILAR TYPE OF AGREEMENT ENTERED INTO WITH  
35 ONE OR MORE LABOR ORGANIZATIONS, EMPLOYEES OR EMPLOYEE REPRESENTATIVES THAT  
36 ESTABLISHES THE TERMS AND CONDITIONS OF EMPLOYMENT ON A CONSTRUCTION PROJECT.

37 4. "Public works contract" means a contract to which the state or a  
38 political subdivision is a party involving the employment of laborers,  
39 workmen or mechanics in the construction, alteration or repair of public  
40 buildings or improvements.

1           Sec. 2. Section 40-360.06, Arizona Revised Statutes, is amended to  
2 read:

3           40-360.06. Factors to be considered in issuing a certificate of  
4                                   environmental compatibility

5           A. The committee may approve or deny an application and may impose  
6 reasonable conditions ~~upon~~ ON the issuance of a certificate of environmental  
7 compatibility and in so doing shall consider the following factors as a basis  
8 for its action with respect to the suitability of either plant or  
9 transmission line siting plans:

10           1. Existing plans of the state, local government and private entities  
11 for other developments at or in the vicinity of the proposed site.

12           2. Fish, wildlife and plant life and associated forms of life ~~upon~~ ON  
13 which they are dependent.

14           3. Noise emission levels and interference with communication signals.

15           4. The proposed availability of the site to the public for  
16 recreational purposes, consistent with safety considerations and regulations.

17           5. Existing scenic areas, historic sites and structures or  
18 archaeological sites at or in the vicinity of the proposed site.

19           6. The total environment of the area.

20           7. The technical practicability of achieving a proposed objective and  
21 the previous experience with equipment and methods available for achieving a  
22 proposed objective.

23           8. The estimated cost of the facilities and site as proposed by the  
24 applicant and the estimated cost of the facilities and site as recommended by  
25 the committee, recognizing that any significant increase in costs represents  
26 a potential increase in the cost of electric energy to the customers or the  
27 applicant.

28           9. Any additional factors ~~which~~ THAT require consideration under  
29 applicable federal and state laws pertaining to any such site.

30           B. The committee shall give special consideration to the protection of  
31 areas unique because of biological wealth or because they are habitats for  
32 rare and endangered species.

33           C. Notwithstanding any other provision of this article, the committee  
34 shall require in all certificates for facilities that the applicant comply  
35 with all applicable nuclear radiation standards and air and water pollution  
36 control standards and regulations, but shall not require EITHER OF THE  
37 FOLLOWING:

38           1. Compliance with performance standards other than those established  
39 by the agency having primary jurisdiction over a particular pollution source.

40           2. THAT A CONTRACTOR, SUBCONTRACTOR, MATERIAL SUPPLIER OR OTHER PERSON  
41 ENGAGED IN THE CONSTRUCTION, MAINTENANCE, REPAIR OR IMPROVEMENT OF ANY  
42 PROJECT SUBJECT TO APPROVAL OF THE COMMISSION NEGOTIATE, EXECUTE OR OTHERWISE  
43 BECOME A PARTY TO ANY PROJECT LABOR AGREEMENT OR OTHER AGREEMENT WITH  
44 EMPLOYEES, EMPLOYEES' REPRESENTATIVES OR ANY LABOR ORGANIZATION AS A

1    CONDITION OF OR A FACTOR IN THE COMMISSION'S APPROVAL OF THE PROJECT. THIS  
2    PARAGRAPH DOES NOT:  
3        (a) PROHIBIT PRIVATE PARTIES FROM ENTERING INTO INDIVIDUAL COLLECTIVE  
4    BARGAINING RELATIONSHIPS.  
5        (b) REGULATE OR INTERFERE WITH ACTIVITY PROTECTED BY LAW, INCLUDING  
6    THE NATIONAL LABOR RELATIONS ACT.  
7        D. Any certificate granted by the committee shall be conditioned on  
8    compliance by the applicant with all applicable ordinances, master plans and  
9    regulations of the state, a county or an incorporated city or town, except  
10   that the committee may grant a certificate notwithstanding any such  
11   ordinance, master plan or regulation, exclusive of franchises, if the  
12   committee finds as a fact that compliance with such ordinance, master plan or  
13   regulation is unreasonably restrictive and compliance therewith is not  
14   feasible in view of technology available. When it becomes apparent to the  
15   chairman of the committee or to the hearing officer that an issue exists  
16   with respect to whether such an ordinance, master plan or regulation is  
17   unreasonably restrictive and compliance therewith is not feasible in view of  
18   technology available, ~~he~~ CHAIRMAN OR HEARING OFFICER shall promptly serve  
19   notice of such fact by certified mail ~~upon~~ ON the chief executive officer of  
20   the area of jurisdiction affected and, notwithstanding any provision of this  
21   article to the contrary, shall make such area of jurisdiction a party to the  
22   proceedings ~~upon~~ ON its request and shall give it an opportunity to respond  
23   on such issue.

APPROVED BY THE GOVERNOR APRIL 6, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2011.

Passed the House April 4, 20 11,

Passed the Senate February 28, 20 11,

by the following vote: 40 Ayes,

by the following vote: 20 Ayes,

19 Nays, 1 Not Voting

9 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

Cheryl Laube  
Chief Clerk of the House

Charmine B. Bunting  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2011,

at 4:40 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 6<sup>th</sup> day of

April, 20 11,

at 4:21 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7<sup>th</sup> day of April, 20 11,

at 12:18 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1403