HB495

164661-4

By Representatives Mooney, Henry, Hubbard, Hill (M), Fridy, Drake, Carns, Wingo, Holmes (M) and Beech

RFD: State Government

First Read: 14-APR-15
SYNOPSIS: The bill would further specify Alabama's status as a right to work state.

A BILL TO BE ENTITLED AN ACT Relating to prohibited practices relating to employer and employee relationships; to prohibit local governmental entities from requiring leave for employees of employers; to prohibit interfering with an employer's right to obtain background information about employees and prospective employees; and to provide for the Alabama Employment Fairness Act to retain the authority of the state to regulate collective bargaining under federal labor laws.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Legislature recognizes that fair, secure, and safe workplaces are critical to high employer and employee productivity and that increased employer and employee productivity improves the economic health of our state.
Because an employer is in the best position to understand the fairness, security, and safety needs of an employer's workplace, any law or ordinance that hinders an employer's ability to meet the demands of such needs by limiting the ability of an employer to become informed about the background of an employee or potential employee is against the public policy of this state.

(b) Employers and employees alike benefit from consistent and established standards regulating fair employment practices. There are existing federal and state laws which seek to protect individuals from discrimination in employment while also providing appropriate due process to employers and, without limiting the employers' ability to maintain a secure, safe, and productive workplace, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Equal Pay Act, and the Genetic Information Nondiscrimination Act.

(c) Alabama is a right-to-work state, governed by right-to-work laws. Such laws are premised on the belief of free choice whereby employees have a right to freely decide whether to join, be represented by, or financially support a union or employee organization. A labor neutrality agreement may be used as a means to pressure company ownership and management to agree to union demands before the union approaches or involves affected employees, which may negatively impact the employer as well as the employee or
potential employee. These agreements have become increasingly common in recent years, and as a result of this increase, the need to regulate the use of such agreements is necessary to ensure that both the employer and employee are treated in the fairest way possible.

Section 2. (a) For purposes of this section the following words have the following meanings:

(1) DISCRIMINATION. An action by an employer or a distinction by an employer that adversely affects an employee or job applicant based on a group, class, or category to which that person belongs.

(2) EMPLOYEE. An individual employed in this state by an employer, or a natural person who performs services for an employer for valuable consideration and does not include a self-employed independent contractor.

(3) EMPLOYER. A person engaging in any activity, enterprise, or business in this state employing one or more employees, or a person, association, or legal or commercial entity receiving services from an employee and, in return, giving compensation of any kind to such employee.

(5) LABOR PEACE AGREEMENT. An arrangement between a union and employer under which one or both entities agree to waive certain rights under federal law with regard to union organizing and related activity.

(6) MULTIEMPLOYER ASSOCIATION. A bargaining unit composed of independent employers who associate together to negotiate jointly with one or more labor organizations representing the employees of the independent employers within the bargaining unit.

(7) PROJECT LABOR AGREEMENT. A collective bargaining agreement with one or more labor unions that establishes the terms and conditions of employment for a specific construction project before employees are hired to work on such project.

(8) STATE. State of Alabama and its agencies, departments, commissions and bureaus therefore including, but not limited to, the Alabama Legislature.

(b) A county, municipality, or any political subdivision in this state shall not enact or administer an ordinance, policy, rule, or other mandate requiring an employer to provide any employee or any class of employees with any employment benefit, including, but not limited to, paid or unpaid leave, vacation, wage, or work schedule, that is not required by state or federal law, and may not require an employer to compensate an employee for any vacation or other forms of leave for which state or federal law does not require the employer to be compensated.
(c) This section does not apply to any mandate enacted by a county, municipality, or political subdivision of this state relating to vacation or other forms of leave for an employee or class of employees of the political subdivision.

(d) Any ordinance, policy, rule, or other mandate of a political subdivision of this state that is inconsistent with this section is void.

Section 3. (a) A county municipality, or any other political subdivision of the state shall not adopt or maintain in effect any law, ordinance, rule, or policy that creates requirements, regulations, processes, or prohibitions that in any way interfere with an employer's ability to conduct background checks and any other lawful investigations relating to an employee or potential employee that are otherwise in compliance with state law. Any ordinance or regulation that exists as the passage of this act or that is created after that date that violates the provisions of this section shall be explicitly preempted and voided by this section.

(b)(1) No law, ordinance, or regulation shall impose any contractual, zoning, permitting, licensing, or other condition that requires any employer or employee to waive their rights under the National Labor Relations Act, compiled in 29 U.S.C.S. § 151 et seq.

(2) No law, regulation, or ordinance shall require, in whole or in part, any employer or multi-employer association to accept or otherwise agree to any provisions that are mandatory or non-mandatory subjects of collective
bargaining under federal labor laws, including, but not
limited to, any limitations on an employer or multi-employer
association's rights to engage in collective bargaining with a
labor organization, to lock out employees, or to operate
during a work stoppage; provided, this subsection shall not
invalidate or otherwise restrict the state from requiring the
use of project labor agreements to the extent permissible
under federal labor laws.

(3) This subsection shall be interpreted and
enforced in a manner that is consistent with the National

(4) Any agreement, contract, understanding, or
practice, written or oral, implied or expressed, between any
employer and any labor organization containing requirements in
violation of this subsection is declared to be unlawful, null
and void, and of no legal effect.

(5) An employer or employee may seek injunctive
relief in the Circuit Court of Montgomery County for
violations of the provisions of this section.

(c)(1) The state shall retain the exclusive
authority to require an employer or multi-employer association
to enter into a project labor agreement.

(2) This subsection does not prohibit an employer or
any other person covered by the National Labor Relations Act,
compiled in 29 U.S.C.S., Section 131, from entering into
agreements or engaging in any other activity protected by law.
This subsection may not be interpreted to interfere with the
labor relations of persons covered by the National Labor Relations Act.

(3) Relief that would interfere with the labor relations of persons covered by the National Labor Relations Act may not be granted under the provisions of this subsection.

Section 4. This act shall become effective immediately upon its passage and approval, signature of the Governor, or its otherwise becoming law.