

1 HB495
2 164661-4
3 By Representatives Mooney, Henry, Hubbard, Hill (M), Fridy,
4 Drake, Carns, Wingo, Holmes (M) and Beech
5 RFD: State Government
6 First Read: 14-APR-15

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8 SYNOPSIS: The bill would further specify Alabama's
9 status as a right to work state.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT

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15 Relating to prohibited practices relating to
16 employer and employee relationships; to prohibit local
17 governmental entities from requiring leave for employees of
18 employers; to prohibit interfering with an employer's right to
19 obtain background information about employees and prospective
20 employees; and to provide for the Alabama Employment Fairness
21 Act to retain the authority of the state to regulate
22 collective bargaining under federal labor laws.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) The Legislature recognizes that fair,
25 secure, and safe workplaces are critical to high employer and
26 employee productivity and that increased employer and employee
27 productivity improves the economic health of our state.

1 Because an employer is in the best position to understand the
2 fairness, security, and safety needs of an employer's
3 workplace, any law or ordinance that hinders an employer's
4 ability to meet the demands of such needs by limiting the
5 ability of an employer to become informed about the background
6 of an employee or potential employee is against the public
7 policy of this state.

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

19 (c) Alabama is a right-to-work state, governed by
20 right-to-work laws. Such laws are premised on the belief of
21 free choice whereby employees have a right to freely decide
22 whether to join, be represented by, or financially support a
23 union or employee organization. A labor neutrality agreement
24 may be used as a means to pressure company ownership and
25 management to agree to union demands before the union
26 approaches or involves affected employees, which may
27 negatively impact the employer as well as the employee or

1 potential employee. These agreements have become increasingly
2 common in recent years, and as a result of this increase, the
3 need to regulate the use of such agreements is necessary to
4 ensure that both the employer and employee are treated in the
5 fairest way possible.

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

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

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

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

21 (4) FEDERAL LABOR LAWS. The National Labor Relations
22 Act, compiled in 29 U.S.C.S., Section 151 et seq., and the
23 Labor Management Relations Act, compiled in 29 U.S.C.S.,
24 Section 141 et seq., as amended, presidential executive
25 orders, and federal administrative regulations relating to
26 labor and management or employee and employer issues, and the
27 United States Constitution, as amended.

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

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

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

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

17 (b) A county, municipality, or any political
18 subdivision in this state shall not enact or administer an
19 ordinance, policy, rule, or other mandate requiring an
20 employer to provide any employee or any class of employees
21 with any employment benefit, including, but not limited to,
22 paid or unpaid leave, vacation, wage, or work schedule, that
23 is not required by state or federal law, and may not require
24 an employer to compensate an employee for any vacation or
25 other forms of leave for which state or federal law does not
26 require the employer to be compensated.

1 (c) This section does not apply to any mandate
2 enacted by a county, municipality, or political subdivision of
3 this state relating to vacation or other forms of leave for an
4 employee or class of employees of the political subdivision.

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

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

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

24 (2) No law, regulation, or ordinance shall require,
25 in whole or in part, any employer or multi-employer
26 association to accept or otherwise agree to any provisions
27 that are mandatory or non-mandatory subjects of collective

1 bargaining under federal labor laws, including, but not
2 limited to, any limitations on an employer or multi-employer
3 association's rights to engage in collective bargaining with a
4 labor organization, to lock out employees, or to operate
5 during a work stoppage; provided, this subsection shall not
6 invalidate or otherwise restrict the state from requiring the
7 use of project labor agreements to the extent permissible
8 under federal labor laws.

9 (3) This subsection shall be interpreted and
10 enforced in a manner that is consistent with the National
11 Labor Relations Act, compiled in 29 U.S.C.S. § 151 et seq.

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

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

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

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

1 labor relations of persons covered by the National Labor
2 Relations Act.

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

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