Chapter No. 499
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# *SENATE BILL NO. 2797*

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2797

AN ACT TO CREATE THE "MISSISSIPPI EMPLOYMENT FAIRNESS ACT"; TO PROVIDE THAT THE STATE SHALL RETAIN EXCLUSIVE AUTHORITY TO REGULATE CERTAIN LABOR AGREEMENTS OR PROVISIONS THAT ARE THE SUBJECTS OF COLLECTIVE BARGAINING AGREEMENTS UNDER FEDERAL LABOR LAWS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** This act shall be known and may be cited as the "Mississippi Employment Fairness Act."

**SECTION 2.** 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 without limiting the employer's 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.

Mississippi is a right-to-work state and is governed by the 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 is used as a tool to pressure company ownership and management to agree to union demands before the union approaches or involves affected employees, which is unfair to the employer as well as the employee or potential employee. This state recognizes that these agreements have become increasingly common in recent years. 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 3.** For purposes of this act, the following words shall have the following meanings, unless the context clearly describes otherwise:

(a) "Employee" means a natural person who performs services for an employer for valuable consideration, and does not include a self-employed independent contractor.

(b) "Employer" means a person, association, or legal or commercial entity receiving services from an employee and, in return, giving compensation of any kind to such employee.

(c) "Discrimination" means when an employer takes an action or makes a distinction adversely affecting an employee or

job applicant based on the group, class, or category to which that person belongs.

(d) "Federal labor laws" mean the National Labor Relations Act, compiled in 29 USCS, Section 151 et seq., and the Labor Management Relations Act, compiled in 29 USCS, Section 141 et seq., as amended, presidential executive orders, federal administrative regulations relating to labor and management or employee and employer issues, and the United States Constitution as amended.

(e) "Multiemployer association" means a bargaining unit composed of independent employers who associate together to negotiate jointly with one (1) or more labor organizations representing the employees of the independent employers within the bargaining unit.

(f) "Labor peace agreement" means an arrangement between a union and employer under which one (1) or both entities agree to waive certain rights under federal law with regard to union organizing and related activity.

(g) "Project labor agreement" means a collective bargaining agreement with one (1) 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.

(h) "State," for the purposes of this act, means the Mississippi Legislature.

**SECTION 4.** (1) The state shall retain the exclusive authority to require an employer or multiemployer association to accept or otherwise agree to any provisions of a labor peace agreement or any provisions that are mandatory or nonmandatory subjects of collective bargaining under federal labor laws, including, but not limited to, any limitations on an employer or multiemployer association's rights to engage in collective bargaining with a labor organization, to lock out employees, or to operate during a work stoppage; however, 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.

(2) This section shall be interpreted and enforced in a manner that is consistent with the National Labor Relations Act, compiled in 29 USCS, Section 151 et seq.

(3) 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 section is declared to be unlawful, null and void, and of no legal effect.

(4) An employer or employee may seek injunctive relief in the Chancery Court of Hinds County, Mississippi, for violations of the provisions of this section.

**SECTION 5.** (1) The state shall retain the exclusive authority to require an employer or multiemployer association to enter into a project labor agreement.

(2) This section does not prohibit an employer or any other person covered by the National Labor Relations Act compiled in 29 USCS, Section 131 from entering into agreements or engaging in any other activity protected by law. This section 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 section.

**SECTION 6.** This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
March 26, 2014

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 5, 2014

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

4/16/14 3:09 pm