

1 HB27
2 112961-1
3 By Representative Mitchell
4 RFD: County and Municipal Government
5 First Read: 12-JAN-10
6 PFD: 09/23/2009

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8 SYNOPSIS: This bill would authorize employees of the
9 political subdivisions of this state to bargain
10 collectively through representatives regarding the
11 terms and conditions of their employment.

12 This bill would provide for the procedure
13 for collective bargaining; provide for the
14 deduction of fees from the compensation of an
15 employee for payment of dues to the organization
16 that engages in collective bargaining for the
17 employee; require the collective bargaining
18 agreement to provide that an employee after
19 completion of a probationary period could only be
20 terminated for just cause and contain a grievance
21 procedure; and authorize arbitration.

22 This bill would provide that a labor
23 organization recognized as the bargaining
24 representative of employees by the employer in
25 existence at the effective date of this act would
26 become the bargaining representative for the
27 employees.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to collective bargaining; to authorize
23 employees of the political subdivisions of this state to
24 bargain collectively through representatives regarding the
25 terms and conditions of their employment; to provide for the
26 procedure for collective bargaining; to provide for the
27 deduction of fees from the compensation of an employee for

1 payment of dues to the organization that engages in collective
2 bargaining for the employee; to require the collective
3 bargaining agreement to provide that after completion of a
4 probationary period an employee could only be terminated for
5 just cause and contain a grievance procedure; to provide for
6 arbitration; to provide that a labor organization recognized
7 as the bargaining representative of employees by the employer
8 in existence at the effective date of this act would become
9 the bargaining representative for the employees; and in
10 connection therewith would have as its purpose or effect the
11 requirement of a new or increased expenditure of local funds
12 within the meaning of Amendment 621 of the Constitution of
13 Alabama of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of Alabama of 1901,
15 as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. As used in this act, the following words
18 shall have the following meanings:

19 (1) COLLECTIVE BARGAINING AGREEMENT. A written
20 agreement between an employer and a labor organization, which
21 relates to terms, wages, hours, and conditions of employment,
22 and any questions arising concerning employment for employees
23 in a bargaining unit represented by the labor organization.

24 (2) EMPLOYEE. All officers and any person employed
25 by or engaged in the service of the state, a county, or any
26 political subdivision of the county, or a municipality except
27 the following:

- 1 a. Elected officers.
- 2 b. Members of appointive boards, commissions,
3 councils, committees, and authorities.
- 4 c. Attorneys who, with the express or implied
5 permission of any appointing authority or the county, hold
6 themselves out for employment by others in the same or like
7 line of work as that performed by them for the appointing
8 authority.
- 9 d. Persons in the classified service within the
10 meaning of and subject to the State of Alabama Merit System
11 under any present or future law, and so long as the law
12 remains effective.

13 e. Chief clerks or chief deputies and the county
14 engineer, road foreman, personnel director, shop foreman,
15 chief appraisers, or any other exempt or unclassified
16 personnel as defined by the rules of the personnel board of
17 the county or any political subdivision covered by this act.

18 (3) EMPLOYER. This state and all political
19 subdivisions of the State of Alabama including, but not
20 limited to, cities, towns, boards, commissions, councils,
21 committees, and authorities.

22 (4) EXCLUSIVE BARGAINING REPRESENTATIVE. The labor
23 organization which has been recognized by the employer prior
24 to the effective date of this act, or is determined to be the
25 collective bargaining representative pursuant to this section,
26 shall be the sole and exclusive bargaining representative of
27 employees in the bargaining unit represented.

1 (5) LABOR DISPUTE. Any controversy concerning wages,
2 hours, and conditions of employment or concerning negotiations
3 and any other terms and conditions of organizations arising
4 concerning employment and any disputes between the employees
5 and employer.

6 (6) LABOR ORGANIZATION. An organization in which
7 employees participate and which exists for the primary purpose
8 of dealing with the employer concerning wages, hours, and
9 other conditions of employment.

10 (7) PERSON. One or more persons, employee
11 organizations, employers, employees, partnerships,
12 associations, corporations, legal representatives, trustees,
13 trustees in bankruptcy, or receivers.

14 (8) SUPERVISORY EMPLOYEE. A person having the
15 authority in the interest of the employer and for a majority
16 of the person's work time to hire, fire, transfer, suspend,
17 lay off, recall, promote, reward, or discipline other
18 employees or to adjust their grievances, if, in connection
19 with the foregoing, the exercise of the authority is not of
20 merely a routine or clerical nature but requires the use of
21 independent judgment.

22 Section 2. (a) Employees shall have the right of
23 self-organization to form, join, or assist labor
24 organizations, to bargain collectively through representatives
25 of their own choosing on questions of terms, wages, hours, and
26 other conditions of employment and any questions arising
27 concerning employment, and to engage in other concerted

1 activities for the purposes of collective bargaining or other
2 aid or protection, free from interference, restraint, or
3 coercion from their employer. Employees shall also have the
4 right to refrain from any and all activities involving
5 forming, joining, or assisting a labor organization.

6 (b) Notwithstanding the provisions of subsection
7 (a), employees shall not have the right to strike or otherwise
8 participate in an organized work stoppage.

9 Section 3. (a) The employer, or his or her designee,
10 shall meet with the designee of the bargaining representative
11 at reasonable times, including meeting in advance of the
12 budget-making process, and negotiate in good faith with
13 respect to terms, wages, hours, and other conditions of
14 employment and any questions arising concerning employment for
15 employees represented by the labor organization. The parties
16 shall enter into a written contract incorporating any
17 agreement reached if requested by either party, but neither
18 party shall be compelled to agree to a proposal or make a
19 concession. The duty to bargain includes, but is not limited
20 to, the duty to negotiate about matters which are or may be
21 the subject of a regulation promulgated by an agency of the
22 employer.

23 (b) Suits for violation of collective bargaining
24 agreements between an employer and a labor organization
25 representing employees of the employer may be brought in a
26 circuit court of competent jurisdiction, without respect to
27 the amount in controversy. This act may be enforced by means

1 of a civil action brought in a circuit court of competent
2 jurisdiction. The court may award a prevailing party all
3 appropriate relief deemed necessary by the court, including
4 injunctive relief, rehiring or reinstatement of employees,
5 back pay, and establishment or reestablishment, or both, of
6 any employee benefits, including seniority. The court shall
7 award the prevailing party reasonable attorney's fees and
8 costs.

9 Section 4. An employer, on receipt of a written
10 authorization of an employee, shall deduct from the pay of the
11 employee any fees designated or certified by the appropriate
12 officer of the labor organization and shall remit the fees to
13 the labor organization. Where there is an exclusive
14 representative, the employer may not entertain a written or
15 oral authorization on behalf of any other labor organization
16 from an employee in the bargaining unit. Any dues
17 authorization may be discontinued by the employee as provided
18 in the collective bargaining agreement.

19 Section 5. (a) A collective bargaining agreement
20 shall provide that no employee who has completed his or her
21 probationary period may be terminated or otherwise disciplined
22 except for just cause and shall contain a grievance procedure
23 culminating in final and binding arbitration by an independent
24 neutral person chosen by the parties of unresolved grievances,
25 including disciplinary grievances and disputed interpretations
26 of agreements. The agreement shall be valid and enforced by
27 its terms when entered into in accordance with this act. Suits

1 for violation of this act and for contracts and the
2 enforcement thereof between an employer and a labor
3 organization may be brought in circuit court. Attorney's fees
4 and costs shall be awarded where an employee obtains an award
5 of back pay.

6 (b) An employer and the bargaining agent may at any
7 time mutually agree on an arbitrator to hear and decide all
8 matters in dispute between them. If they are unable to
9 mutually agree upon an arbitrator, an arbitrator shall be
10 selected as follows:

11 (1) Within 10 days following the date of the
12 dispute, or within the period otherwise provided by agreement,
13 either the employer or the bargaining agent may request the
14 Federal Mediation and Conciliation Service or American
15 Arbitration Association for a panel of seven arbitrators. Upon
16 receipt of the panel from Federal Mediation and Conciliation
17 Service or American Arbitration Association, the bargaining
18 representative and the employer, within five days from the
19 receipt thereof, shall alternately strike names until one
20 arbitrator remains who shall be the arbitrator for the issue
21 or issues to be submitted. If the parties fail to select an
22 arbitrator pursuant to this section, the arbitrator shall be
23 chosen by the Commissioner of Labor from the Federal Mediation
24 and Conciliation Service or American Arbitration Association
25 panel.

26 (2) The arbitrator selected shall schedule a hearing
27 of the employer and the bargaining representative as soon as

1 is convenient but no later than 30 days from receipt of the
2 panel. The hearing shall be informal, and the rules of
3 evidence in judicial proceedings shall not be binding. Any and
4 all documentary evidence and other data deemed relevant by the
5 arbitrator may be received in evidence. The arbitrator shall
6 have the power to administer oaths of witnesses. The
7 arbitrator shall issue a decision within 30 days of the close
8 of the hearing. The decision of the arbitrator shall be final
9 and binding.

10 (3) The compensation of the arbitrator and all
11 expenses incurred in connection therewith shall be shared
12 equally by the employer and the bargaining representative.

13 Section 6. (a) If, at the time of the effective date
14 of this act, there is a labor organization recognized as the
15 bargaining representative of employees by the employer, then
16 that labor organization shall automatically and immediately
17 become the bargaining representative for all departments and
18 classifications in which that labor organization represents
19 employees. Otherwise, a labor organization shall become the
20 bargaining representative upon submission to the Commissioner
21 of Labor of a showing that a majority of the employees in an
22 appropriate bargaining unit are dues paying members of that
23 labor organization or that they have authorized that labor
24 organization to represent them for the purpose of collective
25 bargaining. The Commissioner of Labor shall protect the
26 privacy of the labor organization's submission. If the
27 Commissioner of Labor verifies that a majority of the

1 employees in a unit appropriate for bargaining are dues paying
2 members of that labor organization or has authorized that
3 labor organization to represent them, the labor organization
4 shall become the exclusive bargaining representative of the
5 employees in the bargaining unit sought. The Commissioner of
6 Labor shall complete the verification process and advise the
7 labor organization and the employer of the results within 10
8 days of the submission by the labor organization. A labor
9 organization may be decertified as the bargaining
10 representative upon the submission to the Commissioner of
11 Labor of a petition signed by at least 30 percent of the
12 employees in an appropriate bargaining unit that they no
13 longer desire representation by the labor organization and
14 after a secret ballot election conducted under the supervision
15 of the Commissioner of Labor.

16 (b) A labor organization and the employer shall seek
17 to agree on the composition of bargaining units. In the event
18 of a disagreement, an arbitrator selected from a list provided
19 by the American Arbitration Association, or successor
20 organization, shall determine the appropriate unit using the
21 factors traditionally used under the National Labor Relations
22 Act.

23 Section 7. This act shall supersede all previous
24 statutes concerning this subject matter and shall preempt all
25 contrary local ordinances, executive orders, legislation,
26 rules or regulations adopted by the state or any of its
27 political subdivisions or agents. However, the rules and

1 regulations of any political subdivision covered by this act,
2 shall remain in full force and effect concerning hiring,
3 probationary periods, promotions, disciplinary actions, and
4 job reclassifications.

5 Section 8. The provisions of this act are severable.
6 If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 9. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.