

1 SB408  
2 164661-2  
3 By Senator Albritton  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 23-APR-15

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8 SYNOPSIS: The bill would prohibit local governing  
9 entities from requiring employers to provide leave  
10 to employees. The bill would prohibit local  
11 governing entities from interfering with an  
12 employer's ability to obtain background information  
13 on employees or potential employees.

14 The bill would specify that the state would  
15 retain exclusive authority to require employers and  
16 multiemployer associations to agree to collective  
17 bargaining agreements under federal labor laws.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

22  
23 Relating to prohibited practices relating to  
24 employer and employee relationships; to prohibit local  
25 governmental entities from requiring leave for employees of  
26 employers; to prohibit interfering with an employer's right to  
27 obtain background information about employees and prospective

1 employees; and to provide for the Alabama Employment Fairness  
2 Act to retain the authority of the state to regulate  
3 collective bargaining under federal labor laws.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. (a) For purposes of this section the  
6 following words have the following meanings:

7 (1) EMPLOYEE. An individual employed in this state  
8 by an employer.

9 (2) EMPLOYER. A person engaging in any activity,  
10 enterprise, or business in this state employing one or more  
11 employees.

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

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

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

4 Section 2. (a) A county municipality, or any other  
5 political subdivision of the state shall not adopt or maintain  
6 in effect any law, ordinance, rule, or policy that creates  
7 requirements, regulations, processes, or prohibitions that in  
8 any way interfere with an employers' ability to become fully  
9 informed about the background of an employee or potential  
10 employee for the purpose of creating or maintaining a fair,  
11 secure, safe, and productive workplace. Any ordinance or  
12 regulation that exists as of July 1, 2015, or that is created  
13 after that date that violates the provisions of this section  
14 shall be explicitly preempted and voided by this section.

15 (b) The Legislature recognizes that fair, secure,  
16 and safe workplaces are critical to high employer and employee  
17 productivity and that increased employer and employee  
18 productivity improves the economic health of our state.  
19 Because an employer is in the best position to understand the  
20 fairness, security, and safety needs of an employer's  
21 workplace, any law or ordinance that hinders an employer's  
22 ability to meet the demands of such needs by limiting the  
23 ability of an employer to become informed about the background  
24 of an employee or potential employee shall be declared unfair  
25 and against the laws and policies of this state.

26 Section 3. (a) This section shall be known and may  
27 be cited as the Alabama Employment Fairness Act.

1 (b) The Legislature makes the following findings:

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

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

1 (c) For purposes of this section, the following  
2 words shall have the following meaning, unless the context  
3 clearly describes otherwise:

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

8 (2) EMPLOYEE. A natural person who performs services  
9 for an employer for valuable consideration and does not  
10 include a self-employed independent contractor.

11 (3) EMPLOYERS. A person, association, or legal or  
12 commercial entity receiving services from an employee and, in  
13 return, giving compensation of any kind to such employee.

14 (4) FEDERAL LABOR LAWS. The National Labor Relations  
15 Act, compiled in 29 U.S.C.S., Section 151 et seq., and the  
16 Labor Management Relations Act, compiled in 29 U.S.C.S.,  
17 Section 141 et seq., as amended, presidential executive  
18 orders, and federal administrative regulations relating to  
19 labor and management or employee and employer issues, and the  
20 United States Constitution, as amended.

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

25 (6) MULTIEMPLOYER ASSOCIATION. A bargaining unit  
26 composed of independent employers who associate together to  
27 negotiate jointly with one or more labor organizations

1 representing the employees of the independent employers within  
2 the bargaining unit.

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

7 (8) STATE. For the purposes of this section, the  
8 Alabama Legislature.

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

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

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

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

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

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

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

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

26           Section 4. This act shall become effective July 1,  
27 2015.



