

By: Senator(s) Brown, Ward

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2797
(As Sent to Governor)

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

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

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

9 **SECTION 2.** Employers and employees alike benefit from
10 consistent and established standards regulating fair employment
11 practices. There are existing federal and state laws, which seek
12 to protect individuals from discrimination in employment, while
13 also providing appropriate due process to employers without
14 limiting the employer's ability to maintain a secure, safe and
15 productive workplace, including, but not limited to, Title VII of
16 the Civil Rights Act of 1964, the Age Discrimination in Employment
17 Act, the Americans with Disabilities Act, the Equal Pay Act and
18 the Genetic Information Nondiscrimination Act.



19 Mississippi is a right-to-work state and is governed by the
20 right-to-work laws. Such laws are premised on the belief of free
21 choice whereby employees have a right to freely decide whether to
22 join, be represented by, or financially support a union or
23 employee organization. A labor neutrality agreement is used as a
24 tool to pressure company ownership and management to agree to
25 union demands before the union approaches or involves affected
26 employees, which is unfair to the employer as well as the employee
27 or potential employee. This state recognizes that these
28 agreements have become increasingly common in recent years. As a
29 result of this increase, the need to regulate the use of such
30 agreements is necessary to ensure that both the employer and
31 employee are treated in the fairest way possible.

32 **SECTION 3.** For purposes of this act, the following words
33 shall have the following meanings, unless the context clearly
34 describes otherwise:

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

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

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



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

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

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

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

61 (g) "Project labor agreement" means a collective
62 bargaining agreement with one (1) or more labor unions that
63 establishes the terms and conditions of employment for a specific
64 construction project, before employees are hired to work on such
65 project.

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



68 SECTION 4. (1) The state shall retain the exclusive
69 authority to require an employer or multiemployer association to
70 accept or otherwise agree to any provisions of a labor peace
71 agreement or any provisions that are mandatory or nonmandatory
72 subjects of collective bargaining under federal labor laws,
73 including, but not limited to, any limitations on an employer or
74 multiemployer association's rights to engage in collective
75 bargaining with a labor organization, to lock out employees, or to
76 operate during a work stoppage; however, this subsection shall not
77 invalidate or otherwise restrict the state from requiring the use
78 of project labor agreements to the extent permissible under
79 federal labor laws.

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

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

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



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

94 (2) This section does not prohibit an employer or any other
95 person covered by the National Labor Relations Act compiled in 29
96 USCS, Section 131 from entering into agreements or engaging in any
97 other activity protected by law. This section may not be
98 interpreted to interfere with the labor relations of persons
99 covered by the National Labor Relations Act.

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

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

