

By: Representative Fleming

To: Labor

HOUSE BILL NO. 184

1 AN ACT TO CREATE THE STATE NEUTRALITY IN LABOR ORGANIZING
2 ACT; TO PROHIBIT THE STATE OR ANY ENTITY THAT RECEIVES STATE FUNDS
3 FROM USING STATE FUNDS TO ASSIST, PROMOTE OR DETER UNION
4 ORGANIZING; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** This act shall be called the "State Neutrality in
7 Labor Organizing Act."

8 **SECTION 2.** (1) The legislature finds that:

9 (a) It is the policy of the state not to interfere with
10 an employee's choice about whether to join or to be represented by
11 a labor union.

12 (b) Nevertheless, state funds and state property are
13 used to aid or subsidize efforts by private employers to deter
14 union organizing.

15 (c) Such use of state funds is contrary to the purposes
16 for which they were appropriated, and wasteful of scarce public
17 resources.

18 (2) This law is enacted to maintain state neutrality in
19 labor organizing, conserve state resources and ensure that state
20 funds are used for the purposes for which they were appropriated.

21 **SECTION 3.** In this section:

22 (a) "Assist, promote or deter union organizing" means
23 any attempt by an employer to influence the decision of any or all
24 of its employees or the employees of its subcontractors regarding:

25 (i) Whether to support or oppose a labor
26 organization that represents or seeks to represent those
27 employees; or

(ii) Whether to become a member of any labor organization.

(b) "Employer" means any individual, corporation, association, partnership or other legal entity that employs more than one person in the state.

(c) "State" means the state or any agency of state government.

(d) "State contract" means a contract with the state for goods or services or a subcontract for providing part or all of the goods or services covered by another entity's contract for goods or services.

(e) "State contractor" means an employer that has a state contract.

(f) "State funds" means any money drawn from the State Treasury or any special or trust fund of the state, including any money appropriated by the state and transferred to any public agency.

(g) "State property" means any real property or facility owned or leased by the state.

SECTION 4. (1) (a) Any state contract for goods or services must prohibit state contractors from using any state funds to assist, promote or deter union organizing. No state funds shall be used to reimburse a state contractor for any costs incurred to assist, promote or deter union organizing.

(b) During the duration of a state contract, no state contractor shall use any state funds to assist, promote or deter union organizing. Every request for reimbursement from state funds by a state contractor shall include a certification that the contractor is not seeking reimbursement for costs incurred to assist, promote or deter union organizing.

(c) The recipient of a grant of state funds, including state funds disbursed as a grant by any public agency, shall not use the funds to assist, promote or deter union organizing.

61 Before the disbursement of a grant of state funds, the recipient
62 shall provide a certification to the state that none of the funds
63 will be used to assist, promote or deter union organizing.

64 (d) An employer conducting business on state property
65 in accordance with a contract or concession agreement with the
66 state, or a subcontractor on such a contract or agreement, shall
67 not use state property to hold a meeting with any employees or
68 supervisors if the purpose of the meeting is to assist, promote or
69 deter union organizing. This paragraph does not apply if the
70 state property is equally available, without charge, to the
71 general public for holding a meeting.

72 (e) No state contractor shall discharge, demote, harass
73 or otherwise take adverse actions against any individual because
74 such individual seeks to enforce this section or testifies,
75 assists or participates in any manner in an investigation, hearing
76 or other proceeding to enforce this section.

77 (f) For purposes of this section, any expense,
78 including legal and consulting fees and salaries of supervisors
79 and employees, incurred for research for, or preparation, planning
80 or coordination of, or carrying out, an activity to assist,
81 promote or deter union organizing shall be treated as paid or
82 incurred for that activity. For purposes of accounting for
83 expenditures, if state funds and other funds are commingled, any
84 expenditures to assist, promote or deter union organizing shall be
85 allocated between state funds and other funds on a prorata basis.

86 (2) (a) This section shall not apply to an activity
87 performed, or to an expense incurred, in connection with:

88 (i) Addressing a grievance or negotiating or
89 administering a collective bargaining agreement.

90 (ii) Allowing a labor organization or its
91 representatives access to the employer's facilities or property.

92 (iii) Performing an activity required by federal
93 or state law or by a collective bargaining agreement.

(iv) Negotiating, entering into, or carrying out a voluntary recognition agreement with a labor organization.

(b) This section shall not apply to a fixed-priced contract or to any other arrangement by which the amount of the payment of state funds does not depend on the costs incurred by the state contractor.

(c) This section shall not apply to a grant or contract awarded before July 1, 2004, unless the grant or contract is modified, extended or renewed after July 1, 2004.

(3) (a) This section shall be enforced by the Attorney General, which shall promulgate such regulations as are necessary to implement and administer compliance. Regulations shall include reasonable requirements for state contractors and grantees to maintain records sufficient to show that no state funds are used to assist, promote or deter union organizing.

(b) A civil action for a violation of this section may be brought by the Attorney General, or by any state taxpayer on behalf of the people of the state, for injunctive relief, damages, civil penalties and other appropriate equitable relief. All damages and civil penalties collected under this section shall be paid to the State Treasury.

(c) Before filing an action under this section, a taxpayer shall give written notice to the Attorney General of the alleged violation and the intent to bring suit. If the state commences a civil action for the same alleged violation within sixty (60) days of receiving the notice, a separate action by the taxpayer shall be barred. A taxpayer may intervene as a plaintiff in any action brought under this section. If the plaintiff prevails, a taxpayer plaintiff or taxpayer intervener who makes a substantial contribution to the action is entitled to recover reasonable attorney's fees and costs.

(d) A state contractor or employer that violates this section shall be liable to the state for a civil penalty equal to

127 triple the amount of any funds expended to assist, promote or
128 deter union organizing.

129 **SECTION 5.** This act shall take effect and be in force from
130 and after July 1, 2004.