

By: Senator(s) Harkins

To: Labor; Finance

SENATE BILL NO. 2849

1 AN ACT TO PROVIDE THAT, TO BE ELIGIBLE FOR AN ECONOMIC
2 DEVELOPMENT INCENTIVE, AN EMPLOYER MUST NOT GRANT RECOGNITION
3 RIGHTS FOR EMPLOYEES SOLELY AND EXCLUSIVELY ON THE BASIS OF SIGNED
4 UNION AUTHORIZATION CARDS IF THE SELECTION OF A BARGAINING
5 REPRESENTATIVE MAY INSTEAD BE CONDUCTED THROUGH A SECRET BALLOT
6 ELECTION CONDUCTED BY THE NATIONAL LABOR RELATIONS BOARD, MUST NOT
7 VOLUNTARILY DISCLOSE AN EMPLOYEE'S PERSONAL CONTACT INFORMATION TO
8 A LABOR ORGANIZATION, OR TO A THIRD PARTY ACTING ON BEHALF OF A
9 LABOR ORGANIZATION, WITHOUT THE EMPLOYEE'S PRIOR WRITTEN CONSENT,
10 UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW, MUST NOT SIGN A
11 NEUTRALITY AGREEMENT WITH A LABOR ORGANIZATION, AND MUST NOT
12 REQUIRE A SUBCONTRACTOR PERFORMING WORK FOR OR PROVIDING SERVICES
13 TO THE EMPLOYER TO ENGAGE IN THESE PROHIBITED ACTIVITIES; TO
14 PROVIDE FOR REPORTING OF VIOLATIONS TO THE MISSISSIPPI ATTORNEY
15 GENERAL; TO SPECIFY THAT THE REQUIREMENTS OF THIS ACT APPLY ONLY
16 TO AGREEMENTS EXECUTED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT;
17 TO REQUIRE THE STATE TO EXECUTE A SEPARATE AGREEMENT WITH THE
18 RECIPIENT OF AN ECONOMIC DEVELOPMENT INCENTIVE RESERVING THE RIGHT
19 OF THE STATE TO RECOVER THE MONIES DISBURSED BY THE STATE IF THE
20 RECIPIENT BENEFITTING FROM SUCH INCENTIVE FAILS TO COMPLY WITH
21 THIS ACT; TO SPECIFY THE REQUIRED TERM FOR SUCH AN AGREEMENT; AND
22 FOR RELATED PURPOSES.

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

24 **SECTION 1.** (1) The Legislature finds that the State of
25 Mississippi, as part of its economic development policy:

26 (a) Has the right to set terms and conditions in
27 connection with the awarding of economic development incentives;



28 (b) Ought to play an integral role in the formulation
29 of economic opportunities, conditions of grants, and general
30 management of compliance with such awards for monies;

31 (c) Will oftentimes, in awarding economic development
32 incentives, oversee compliance with land use regulations,
33 including management of the subdivision of property, offer and
34 provide water and wastewater services, require fire protection
35 systems and mechanical systems for buildings and structures,
36 approve capital grants, and ensure such monies are approved by the
37 state;

38 (d) Will oftentimes, in awarding economic development
39 incentives, also require a private business to hire a certain
40 number of new full-time employees, require a specific amount of
41 company investment, and ensure workers obtain certain skills and
42 knowledge; and

43 (e) Has a vested interest in seeking to advance and
44 preserve its own interest in projects receiving economic
45 development incentives as a financier of projects contributing to
46 the state's overall economic health.

47 (2) It is the intent of the Legislature, as part of its
48 economic development policy, that:

49 (a) Whenever state funds or benefits are sought by a
50 private business, such benefits shall be conditioned on the
51 private business agreeing not to waive its employees' right to a
52 secret ballot election when recognizing a labor organization as a



53 bargaining unit or requiring subcontractors to waive their
54 employees' right to a secret ballot election; and

55 (b) Whenever state funds or benefits are provided or
56 awarded to a private business, the private business working on a
57 project receiving state funds or benefits shall not voluntarily
58 disclose employee personal contact information to a labor
59 organization without the employee's prior consent, waive its right
60 to speak to its employees, or require subcontractors to
61 voluntarily disclose employee personal contact information to a
62 labor organization without an employee's prior consent or to waive
63 the subcontractor's right to speak to the subcontractor's
64 employees.

65 **SECTION 2.** (1) As used in this section:

66 (a) "Contracts" includes (i) agreements between an
67 employer and the state, and (ii) agreements between an employer
68 and a labor organization.

69 (b) "Economic development incentive" means a grant for
70 economic development purposes provided to an employer to attract
71 or retain the employer's physical presence in this state.

72 (c) "Employee" means an individual who performs
73 services for an employer for wages that are subject to withholding
74 requirements under 26 USC § 3402.

75 (d) "Employer" means a business entity that voluntarily
76 pursues economic development incentives or enters into an



77 agreement with the state for the purpose of receiving those
78 incentives.

79 (e) "Labor organization" has the meaning provided in 29
80 USC § 152.

81 (f) "Personal contact information" means an employee's
82 home address, home or personal cell phone number, or personal
83 email address.

84 (g) "Secret ballot election" means a process conducted
85 by the National Labor Relations Board (NLRB) in which an employee
86 casts a secret ballot for or against labor organization
87 representation.

88 (h) "Subcontractor" means an individual or entity that
89 has contracted with the employer to perform work or provide
90 services.

91 (i) "Neutrality agreement" means an agreement signed
92 with a union wherein the employer agrees to conditions including,
93 but not limited to, committing not speak to employees about union
94 issues.

95 (2) (a) To be eligible for an economic development
96 incentive, an employer must not:

97 (i) Grant recognition rights for employees solely
98 and exclusively on the basis of signed union authorization cards
99 if the selection of a bargaining representative may instead be
100 conducted through a secret ballot election conducted by the
101 National Labor Relations Board (NLRB);



102 (ii) Voluntarily disclose an employee's personal
103 contact information to a labor organization, or to a third party
104 acting on behalf of a labor organization, without the employee's
105 prior written consent, unless otherwise required by state or
106 federal law;

107 (iii) Sign a neutrality agreement with a labor
108 organization; or

109 (iv) Require a subcontractor performing work for
110 or providing services to the employer to engage in activities
111 prohibited in this subsection (2)(a).

112 (b) The prohibitions in paragraph (a) of this
113 subsection (2) apply to any work or service for the employer on
114 the project for which the economic development incentive is
115 provided.

116 (3) A person or entity may report, based on a reasonable
117 belief, a suspected violation of subsection (2)(a) of this section
118 to the Mississippi Attorney General. Such report must be made
119 during the term of the separate agreement entered into by and
120 between the state and the employer. Upon receiving a report under
121 this subsection (3), the Attorney General shall determine whether
122 a violation has occurred. It is a breach of the separate
123 agreement entered into between the state and the employer for the
124 employer to refuse to provide the written statement. If the
125 Attorney General's Office finds that an employer has violated
126 subsection (2)(a) of this section, then it shall deliver written



127 notice of its findings to the employer informing the employer of
128 its intent to initiate proceedings to recover the grant funds
129 awarded.

130 (4) (a) As used in this subsection (4), "agreement"
131 includes a memorandum of understanding mutually accepted by the
132 state and an employer prior to July 1, 2025, including a legally
133 binding agreement subsequent and subject to such memorandum of
134 understanding.

135 (b) This section applies prospectively and excludes:

136 (i) Any agreement between this state and an
137 employer executed prior to July 1, 2025; and

138 (ii) Any agreement between an employer and a labor
139 organization executed prior to July 1, 2025.

140 (c) This section shall apply to any agreement, contract
141 or memorandum of understanding between an employer and a labor
142 organization or the state executed, renewed or modified on or
143 after July 1, 2025.

144 (5) Notwithstanding any other law to the contrary, prior to
145 contracting to award an economic development incentive, the state
146 must execute a separate agreement with the recipient of the
147 incentive that reserves the right of the state to recover the
148 monies disbursed by the state if the recipient benefitting from
149 such incentive fails to comply with this section. This separate
150 agreement must have a term of not less than:



151 (a) For an economic development incentive of less than
152 Five Million Dollars (\$5,000,000.00), the minimum term the state
153 would require; or

154 (b) For an economic development incentive of Five
155 Million Dollars (\$5,000,000.00) or more, twenty (20) years.

156 **SECTION 3.** This act shall take effect and be in force from
157 and after July 1, 2025.

