

By: Senator(s) Harkins, Johnson

To: Finance

SENATE BILL NO. 2202

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, 2026, 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, 2026; and

138 (ii) Any agreement between an employer and a labor  
139 organization executed prior to July 1, 2026.

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, 2026.

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, 2026.

