SENATE BILL 92

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY
Sander Rue

AN ACT
RELATING TO EMPLOYMENT; ENACTING THE EMPLOYEE PREFERENCE ACT;
EXCLUDING PUBLIC EMPLOYERS AND EMPLOYEES; PROHIBITING
MEMBERSHIP IN A LABOR ORGANIZATION AS A CONDITION OF
EMPLOYMENT; PROHIBITING THE DEDUCTION OF DUES OR FEES TO A
LABOR ORGANIZATION FROM THE COMPENSATION OF EMPLOYEES WITHOUT
WRITTEN AUTHORIZATION; PROVIDING FOR INVESTIGATION AND
ENFORCEMENT; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Employee Preference Act".

SECTION 2. [NEW MATERIAL] PUBLIC POLICY.--It is the
public policy of New Mexico that employees shall have, and
shall be protected in the exercise of, the right to form, join
or assist labor organizations or to refrain from any such
activities, freely and without fear of penalty or reprisal.

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the Employee Preference Act:

A. "employee" means a person who performs a service for an employer;

B. "employer" means a person:
   (1) for whom an employee performs a service;
   (2) who has control over the payment of an employee's wages; and
   (3) who is not the state, a political subdivision of the state, a municipality that has adopted a home rule charter or a state educational institution as provided in Article 12, Section 11 of the constitution of New Mexico; and

C. "labor organization" means a union, organization, agency or employee representation committee of any kind that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work or other conditions of employment.

SECTION 4. [NEW MATERIAL] MANDATORY MEMBERSHIP AND FEES PROHIBITED.--A person shall not be required, as a condition of hiring, promotion or continued employment with an employer, to become or remain a member of a labor organization or to pay any dues, fees, assessments or other charges of any kind to a labor organization.
SECTION 5. [NEW MATERIAL] ORGANIZATION APPROVAL

PROHIBITED.--An employer shall not require a person to be recommended or approved by or to be cleared through a labor organization as a condition of hiring, promotion or continued employment.

SECTION 6. [NEW MATERIAL] CERTAIN AGREEMENTS ILLEGAL.--An agreement, understanding or practice, written or oral, implied or expressed, between an employer and a labor organization that is in violation of the Employee Preference Act is unlawful.

SECTION 7. [NEW MATERIAL] VOLUNTARY CHECKOFF.--An employer shall not deduct from the wages, earnings or compensation of an employee any dues, fees, assessments or other charges to be held for or paid to a labor organization unless the employer has first received a written authorization for the deduction signed by the employee, which authorization may be revoked by the employee at any time by giving written notice of the revocation to the employer.

SECTION 8. [NEW MATERIAL] INVESTIGATION.--It is the duty of the attorney general and of every district attorney to investigate complaints of violations of the Employee Preference Act and to prosecute a person suspected of violating that act.

SECTION 9. [NEW MATERIAL] ENFORCEMENT.--If, as a result of investigation, the attorney general or a district attorney has good cause to believe that a person is violating or will violate a provision of the Employee Preference Act, the
attorney general or district attorney may bring an action for injunctive or other appropriate relief in the district court for the county in which the violation is occurring or will occur or in the district court for Santa Fe county.

SECTION 10. [NEW MATERIAL] PENALTY.--A person who violates any provision of the Employee Preference Act is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for a definite term not to exceed ninety days, or both.

SECTION 11. [NEW MATERIAL] APPLICATION OF ACT.--The provisions of the Employee Preference Act shall not apply to any contract or agreement between an employer and a labor organization in force on July 1, 2015 but shall apply to a renewal or extension of the contract or agreement or to a new contract or agreement entered into after July 1, 2015.

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

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