HB174

173460-2

By Representatives Faulkner, Mooney, Hubbard, Faust, Gaston, Greer, Boothe, Polizos, Chesteen, Garrett, Carns, Drake, Wingo, Brown, Williams (P), Holmes (M), Fincher, Hammon, Baker, Shiver, Beckman, Moore (B), Clouse, Lee, Ainsworth, Whorton (I), Williams (JW), Rich, Pettus, Ledbetter, Whorton (R), Sanderford, Farley, Butler, Hill (M), Fridy, Weaver, Johnson (K), Nordgren, South, McMillan, Standridge, Beech, Hill (J), Wadsworth, Johnson (R), Hurst, Hanes, Collins, Rowe, Henry, Ball and Ingram

RFD: State Government

First Read: 09-FEB-16
SYNOPSIS: This bill would establish the Alabama Uniform Minimum Wage and Right-to-Work Act. It would further specify Alabama's status as a right-to-work state and prevent local governmental entities from requiring minimum leave, wages, or other benefits for employees, and provide the Legislature with the authority to establish uniform employment policies and regulations of collective bargaining under federal labor laws.

A BILL

TO BE ENTITLED

AN ACT

Relating to prohibited practices relating to employer and employee relationships; to prohibit local governmental entities from requiring minimum leave, wages, or other benefits for employees, classes of employees, or independent contractors of employers; and to provide for the Alabama Uniform Minimum Wage and Right-to-Work Act to retain
the exclusive authority of the state through the Legislature
to regulate collective bargaining under federal labor laws,
and wages, leave, and benefits provided by an employer to
employees, classes of employees, and independent contractors.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall be known and cited as
the Alabama Uniform Minimum Wage and Right-to-Work Act.

Section 2. (a) For purposes of this act, the
following words have the following meanings:

(1) DISCRIMINATION. An action by an employer or a
distinction by an employer that adversely affects an employee
or job applicant based on a group, class, or category to which
that person belongs.

(2) EMPLOYEE. An individual employed in this state
by an employer or a natural person who performs services for
an employer for valuable consideration and does not include a
self-employed independent contractor.

(3) EMPLOYER. A person engaging in any activity,
enterprise, or business in this state employing one or more
employees, or a person, association, or legal or commercial
entity receiving services from an employee or independent
contractor and, in return, giving compensation of any kind to
such employee or independent contractor.

(4) FEDERAL LABOR LAWS. The National Labor Relations
Act, compiled in 29 U.S.C.S., Section 151 et seq., and the
Labor Management Relations Act, compiled in 29 U.S.C.S.,
Section 141 et seq., as amended, presidential executive
orders, and federal administrative regulations relating to
labor and management or employee and employer issues, and the
United States Constitution, as amended.

(5) INDEPENDENT CONTRACTOR. A self-employed
individual who does not meet the definition of employee, as
provided in this act, but otherwise does meet the definition
of independent contractor as defined by the Internal Revenue
Service.

(6) LABOR PEACE AGREEMENT. An arrangement between a
union and employer under which one or both entities agree to
waive certain rights under federal law with regard to union
organizing and related activity.

(7) MULTI-EMPLOYER ASSOCIATION. A bargaining unit
composed of independent employers who associate together to
negotiate jointly with one or more labor organizations
representing the employees of the independent employers within
the bargaining unit.

(8) PROJECT LABOR AGREEMENT. A collective bargaining
agreement with one or more labor unions that establishes the
terms and conditions of employment for a specific construction
project before employees are hired to work on such project.

(9) STATE. The State of Alabama and its agencies,
departments, commissions, bureaus, and offices including, but
not limited to, the Legislature.

(b) A county, municipality, or any other political
subdivision of this state shall not enact or administer any
ordinance, policy, rule, or other mandate requiring an
employer to provide any employee, class of employees, or
independent contractor with any employment benefit, including,
but not limited to, paid or unpaid leave, vacation, wage, or
work schedule, that is not required by state or federal law,
and shall not require an employer to compensate an employee,
class of employees, or independent contractor for any vacation
or other form of leave for which state or federal law does not
require the employee, class of employees, or independent
contractor to be compensated.

(c) Any ordinance, policy, rule, or other mandate of
a county, municipality, or any other political subdivision of
this state that is inconsistent with this section is void.

Section 3. (a) A county, municipality, or any other
political subdivision of this state shall not enact or
administer any ordinance, rule, policy, or other mandate that
creates requirements, regulations, or processes relating to
labor peace agreements or similar agreements. Any ordinance,
policy, rule, or other mandate of a county, municipality, or
any other political subdivision of this state that is
inconsistent with this section is void.

(b)(1) No law, rule, or ordinance shall impose any
contractual, zoning, permitting, licensing, or other condition
that requires any employer or employee to waive his or her
rights under the National Labor Relations Act, compiled in 29
U.S.C.S. § 151 et seq.

(2) No law, rule, regulation, or ordinance shall
require, in whole or in part, any employer or multi-employer
association to accept or otherwise agree to any provisions that are mandatory or non-mandatory subjects of collective bargaining under federal labor laws, including, but not limited to, any limitations on an employer or multi-employer association's rights to engage in collective bargaining with a labor organization, to lock out employees, or to operate during a work stoppage; provided, this subsection shall not invalidate or otherwise restrict the state from requiring the use of project labor agreements to the extent permissible under federal labor laws.

(3) This subsection shall be interpreted and enforced in a manner that is consistent with the National Labor Relations Act, compiled in 29 U.S.C.S. § 151 et seq.

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

(5) An employer or employee may seek injunctive relief in the Circuit Court of Montgomery County for violations of the provisions of this section.

(c)(1) The state shall retain the exclusive authority to require an employer or multi-employer association to enter into a project labor agreement.

(2) This subsection does not prohibit an employer or any other person covered by the National Labor Relations Act, compiled in 29 U.S.C.S., Section 151, from entering into
project labor agreements or engaging in any other activity protected by law. This subsection may not be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act.

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

Section 4. Notwithstanding any provision of this act to the contrary, nothing in this act shall apply to those state employers or employees in state service as defined in Section 36-26-2, Code of Alabama 1975, or to public employers and employees of state or local educational institutions or systems, or to any ordinance, rule, policy, or other mandate enacted by a county, municipality, or political subdivision of this state relating specifically to public employees or a class or employees employed by or independent contractors hired by the county, municipality, or any other political subdivision.

Section 5. If a court determines that any portion of this act cannot be applied to a particular county, municipality, or other political subdivision of this state, this act shall remain in full force and effect for every other county, municipality, and other political subdivision of this state.

Section 6. (a) The purpose of this section is to establish within the Legislature complete control over
regulation and policy pertaining to collective bargaining
under federal labor laws or the wages, leave, or other
employment benefits provided by an employer to an employee,
class of employees, or independent contractor in order to
ensure that such regulation and policy is applied uniformly
throughout the state.

(b) Except as otherwise provided in this act or as
expressly authorized by a statute of this state, the
Legislature hereby occupies and preempts the entire field of
regulation in this state touching in any way upon collective
bargaining under federal labor laws or the wages, leave, or
other employment benefits provided by an employer to an
employee, class of employees, or independent contractor to the
complete exclusion of any policy, ordinance, rule, or other
mandate promulgated or enforced by any county, municipality,
or other political subdivision of this state.

(c) The authority of a county, municipality, or
other political subdivision of this state to regulate
collective bargaining under federal labor laws or the wages,
leave, or other benefits provided by an employer to an
employee, class of employees, or independent contractor shall
not be inferred from its proprietary authority, home rule
status, or any other inherent or general power.

(d) Any existing policies, ordinances, rules, or
other mandates promulgated or enforced contrary to the terms
of this section are null and void, and any future policy,
ordinance, rule, or other mandate shall comply with this
section.

Section 7. The provisions of this act are severable.

If any part of this act is declared invalid or
unconstitutional, that declaration shall not affect the part
which remains.

Section 8. This act shall become effective
immediately following its passage and approval by the
Governor, or its otherwise becoming law.