

1 SENATE BILL 483

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 William F. Burt

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10 AN ACT

11 RELATING TO LABOR; ENACTING THE EMPLOYEE PREFERENCE ACT;
12 PROVIDING FOR ENFORCEMENT OF AND PENALTIES FOR VIOLATION OF THE
13 EMPLOYEE PREFERENCE ACT; PROVIDING FOR SEVERABILITY.

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

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

18 SECTION 2. [NEW MATERIAL] PUBLIC POLICY.--It is the
19 public policy of New Mexico that all persons employed in the
20 private sector shall have, and shall be protected in the
21 exercise of, the right to form, join or assist labor
22 organizations or to refrain from those activities, freely and
23 without fear of penalty or reprisal.

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

.207005.1

underscored material = new
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1 A. "employer" means a person that hires employees
2 but does not mean or the state, a political subdivision of the
3 state that includes, among other subdivisions, a municipality
4 that has adopted a home rule charter, school districts and
5 post-secondary public educational institutions that include,
6 among other institutions, state educational institutions
7 pursuant to Article 12, Section 11 of the constitution of New
8 Mexico; and

9 B. "labor organization" means a union,
10 organization, agency or employee representation committee that
11 exists for the purpose, in whole or in part, of dealing with
12 employers concerning wages, rates of pay, hours of work or
13 other conditions of employment.

14 SECTION 4. [NEW MATERIAL] MANDATORY MEMBERSHIP AND FEES
15 PROHIBITED.--A person shall not be required by an employer, as
16 a condition of hiring, promotion or continued employment, to:

17 A. become or remain a member of a labor
18 organization; or

19 B. pay dues, fees, assessments or other charges to
20 a labor organization or to a charity or other third party, in
21 lieu of payment to a labor organization.

22 SECTION 5. [NEW MATERIAL] ORGANIZATION APPROVAL
23 PROHIBITED.--An employer shall not require a person to be
24 recommended or approved by or to be cleared through a labor
25 organization as a condition of hiring, promotion or continued

.207005.1

underscored material = new
[bracketed material] = delete

1 employment.

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

7 SECTION 7. [NEW MATERIAL] INVESTIGATION.--The attorney
8 general and district attorneys shall investigate complaints of
9 violations of the Employee Preference Act and shall prosecute a
10 person suspected of violating that act.

11 SECTION 8. [NEW MATERIAL] ENFORCEMENT.--If, as a result
12 of investigation, the attorney general or a district attorney
13 has good cause to believe that a person is violating or will
14 violate a provision of the Employee Preference Act, the
15 attorney general or district attorney may bring an action for
16 injunctive or other appropriate relief in the district court
17 for the county in which the violation is occurring or will
18 occur or in the district court for Santa Fe county.

19 SECTION 9. [NEW MATERIAL] PENALTY.--A person who violates
20 a provision of the Employee Preference Act is guilty of a
21 misdemeanor and upon conviction shall be punished by a fine of
22 not more than one thousand dollars (\$1,000) or by imprisonment
23 for a definite term not to exceed ninety days or both.

24 SECTION 10. [NEW MATERIAL] REMEDIES.--

25 A. A person injured or threatened with injury as a

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1 result of a violation or threatened violation of the provisions
2 of the Employee Preference Act shall be entitled to injunctive
3 relief against any and all violators or persons threatening the
4 violation.

5 B. A person injured as a result of a violation or
6 threatened violation of the provisions of the Employee
7 Preference Act may recover any and all damages, including costs
8 and reasonable attorney fees, of any character resulting from
9 the violation or threatened violation.

10 C. Remedies pursuant to this section shall be
11 independent of and in addition to any other penalty or remedy
12 prescribed in the Employee Preference Act.

13 SECTION 11. [NEW MATERIAL] EXCEPTIONS.--The provisions of
14 the Employee Preference Act shall not apply to employers and
15 employees covered by the federal Railway Labor Act; federal
16 employers and employees; or where they would otherwise conflict
17 with, or be preempted by, federal law.

18 SECTION 12. [NEW MATERIAL] SEVERABILITY.--If any part or
19 application of the Employee Preference Act is held invalid, the
20 remainder or its application to other situations and persons
21 shall not be affected.

22 SECTION 13. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2017.