

Amendment No. 1 to HB1747

Eldridge
Signature of Sponsor

AMEND Senate Bill No. 1745

House Bill No. 1747*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-1-204, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)

(1) Any person, firm, corporation or association of any kind violating § 50-1-201, § 50-1-202, or § 50-1-203, commits a Class A misdemeanor.

(2) Any person violating Sections 5 through 8, commits a Class C misdemeanor.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 1, Part 2, is amended by adding Sections 3 through 8 as new, appropriately designated sections:

SECTION 3. It is declared to be the public policy of this state that:

(1) Individual freedom of choice in employment-related matters must be guarded and maintained;

(2) Employees have the right to use a secret-ballot election when selecting an exclusive bargaining representative;

(3) A secret-ballot election upholds the sanctity of worker free choice;

(4) Employees shall be given the opportunity to cast a vote in accordance with their conscience when they exercise their right to a secret-ballot election, free from coercion, intimidation, threats, misinformation, or interference from outside influences;

(5) No labor organization shall exert undue pressure on an employer to recognize the labor organization as an exclusive bargaining representative based solely on a stated showing of interest by employees in violation of the employees' right to use a secret-ballot election; and

(6) No employer shall unlawfully bargain away its employees' right to a secret-ballot election for labor representation purposes.

SECTION 4. For purposes of Sections 5 through 8:

(1) "Agency" means the state and every political subdivision thereof, including without limitation, every town, city, municipality, county, municipal corporation, governmental subdivision, district, public and quasi-public corporation, public agency and public service corporation, and residential areas located within counties whether incorporated or not and whether chartered or not;

(2) "Commissioner" means the commissioner of labor and workforce development;

(3) "Department" means the department of labor and workforce development;

(4) "Employee" means any individual employed by an employer;

(5) "Employer" means any agency, any private employer or any group or association of employers which is an employer within the meaning of any law of this state or of the United States; provided, such term shall not include the United States government or any corporation wholly owned by the United States government;

(6) "Exclusive bargaining representative" means any labor organization, including any labor organization that has been selected by employees of an agency or designated by the state pursuant to state law as the representative of the employees in an appropriate collective bargaining unit to represent the employees in their employment relations with employers;

(7) "Labor organization" means an employee representation committee, organization, or union in which employees participate and which exists for the purpose, in whole or in part, of dealing with an employer concerning employee wages, rates of pay, hours of work, other forms of compensation, grievances, labor disputes, or other conditions of employment; and

(8) "Secret ballot" means the expression by ballot or voting machine, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter,

which is cast in such a manner that the identity of the person expressing such choice cannot be identified with the choice expressed.

SECTION 5.

(a) All employees, when seeking to select for themselves an exclusive bargaining representative, have the right to make that selection in a secret-ballot election.

(b) Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and an employer that violates the rights of employees as guaranteed by law is hereby declared to be null and void.

(c) It is unlawful for a labor organization, or any member of a labor organization, to strike, picket, boycott, or engage in any other unlawful action, for the sole purpose of inducing or attempting to induce an employer to enter into any agreement, understanding, or practice prohibited under this section.

SECTION 6.

(a) It is unlawful for an employer to dominate or interfere with the formation or administration of any labor organization, or contribute financial or other support to it, or to recognize or bargain collectively with a labor organization that has not been selected by a majority of such employees.

(b) It is unlawful for a labor organization to cause or attempt to cause an employer to recognize or bargain collectively with a representative of a labor organization that has not been selected by a majority of such employees.

(c) Any employee may file a complaint with the department if such employee has reasonable cause to believe that an employer is violating this section.

(d) The department shall respond to any complaint referred to in this section, pursuant to rules and regulations of the department, which the commissioner is hereby authorized to promulgate for the purposes set forth in this part. Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 7. Any employee or employer harmed as a result of any violation or threatened violation of this part shall be entitled to relief, including injunctive relief, in the chancery court of the jurisdiction in which the harm arose or where the labor organization maintains its principal office, against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney fees, of any character resulting from such violation or threatened violation. Such remedies shall be independent of, and in addition to, other penalties and remedies provided in this part.

SECTION 8.

(a) Sections 3 through 7 shall not apply to collective bargaining relationships in which a labor organization was lawfully recognized as an exclusive bargaining representative before the effective date of this act.

(b) Sections 3 through 7 shall not apply to the selection of an exclusive bargaining representative where an appropriate collective bargaining unit includes employees both within and without of this state, and the employer conducted business within this state before the effective date of this act.

SECTION 9. If any provision of this act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect July 1, 2011, the public welfare requiring it.