

1 HB326
2 164739-3
3 By Representatives Wilcox, Hubbard, Williams (JW), Greer,
4 Sessions, Pringle, Ainsworth, McCutcheon, Johnson (K), Faust,
5 Boothe, Davis, Henry, Harbison, Hill (M), Hammon, Clouse,
6 Polizos, Moore (B), Beckman, McMillan, Holmes (M), Martin,
7 Hill (J), Wingo, Fincher, Drake, Gaston, Sanderford, Patterson
8 and Baker
9 RFD: State Government
10 First Read: 19-MAR-15

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8 SYNOPSIS: The bill would protect employers from
9 intimidating tactics relating to lawful rights of
10 employers.

11 The bill would also prohibit mass pickets
12 and demonstrations that interfere with access to
13 businesses and homes and would provide misdemeanor
14 punishment for violators.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to prohibited practices relating to
14 employer and employee relationships; to prevent unlawful
15 intimidation of employers or employees from exercising federal
16 and state rights in labor negotiations in an effort to obtain
17 something of value; to prohibit unlawful mass picketing or
18 mass demonstrations that deny public or private access to
19 buildings and places; and in connection therewith would have
20 as its purpose or effect the requirement of a new or increased
21 expenditure of local funds within the meaning of Amendment 621
22 of the Constitution of Alabama of 1901, now appearing as
23 Section 111.05 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. (a) This section shall be known and may
27 be cited as the Prohibition Against Employer Intimidation Act.

1 (b) The Legislature makes the following findings:

2 (1) That Alabama is a right-to-work state and the
3 state's right-to-work laws are founded on the basic principle
4 that every individual has an inherent right to choose if he or
5 she wants to join a union or an employee organization, and
6 this right to choose should not impact his or her employment.

7 (2) The State of Alabama recognizes the importance
8 and necessity of fostering economic development and job
9 creation. Intimidation and coercion against any business can
10 make the state an unwelcoming and dangerous place for new
11 business and job growth.

12 (3) Intimidation, extortion, and coercion are
13 illegal and present a substantial risk to public safety and
14 the well-being of the state's citizens, workers, and
15 businesses; and certain limited and reasonable restrictions
16 are deemed necessary to protect our citizens from these harms.

17 (c) A person, organization, corporation, union,
18 agency, or other entity thereof shall not:

19 (1) Damage, harm, injure, or threaten to injure or
20 coerce a business, or any employee or representative of the
21 business, with the intent to unlawfully intimidate the
22 business or its employees from exercising their rights, which
23 are protected by state and federal law, in an effort to obtain
24 something of value for a public or private organization,
25 corporation, union, agency, or other entity, including, but
26 not limited to, a neutrality agreement, card check agreement,

1 collective bargaining recognition, or other objective of an
2 organized initiative.

3 (2) Restrict a business, a union, or the owners or
4 employees of a business from exercising their rights, which
5 are protected under state and federal law, in an effort to
6 obtain something of value for a public or private
7 organization, corporation, union, agency, or other entity.

8 (3) Conspire with another for the purpose of
9 disrupting lawful commerce in places of business, where such
10 activity constitutes an assault or causes physical injury to
11 any individual, located in or around the place of business.

12 (d) For purposes of this subsection, "something of
13 value" includes, but is not limited to, a neutrality
14 agreement, card check agreement, recognition, or any other
15 objective that is motivating such activities.

16 (e) (1) A person, organization, corporation, union,
17 agency, or other entity shall not intentionally or recklessly
18 damage the business property of another when either of the
19 following applies:

20 a. The property is used by its owner or possessor in
21 the owner's or possessor's profession, business, trade, or
22 occupation.

23 b. The person damages or otherwise marks the
24 property owner's merchandise.

25 (2) Any person who organizes, coordinates, controls,
26 supervises, finances, manages, aids, or abets any of the
27 activities prohibited by subdivision (1) shall be subject to

1 the same sanctions and legal remedies as the person,
2 organization, union, agency, or other entity.

3 (f) Nothing in this section shall be construed to
4 infringe and impede upon any individual's First Amendment
5 rights.

6 (g) Violations of subsections (c)(1) or (c)(2) shall
7 be punished as felony extortion under the state's existing
8 criminal code. Violations of (c)(3) shall be punished as
9 assault under the state's existing criminal code. Violations
10 of subsection (e) shall be punished as a misdemeanor vandalism
11 under the state's existing criminal code.

12 Section 2. (a) It shall be unlawful for any person,
13 organization, corporation, union, agency, or other entity
14 thereof, singly or in concert with others, to engage in mass
15 picketing or mass demonstrations in such a manner as to
16 obstruct or reasonably interfere with free ingress or egress
17 of any person to and from any place of business or act or
18 conduct themselves in any manner that would have the effect as
19 to obstruct or unreasonably interfere with free of use of
20 business entryways, streets, sidewalks, or rights-of-way
21 adjacent or contiguous to a business or has or intends the
22 effect of violence or intimidation, near or contiguous to the
23 business' customers or employees.

24 (b) It shall be unlawful for any person,
25 organization, corporation, union, agency, or other entity
26 thereof, singly or in concert with others, to engage in mass
27 picketing or mass demonstrations in such a manner as to

1 obstruct or unreasonably interfere with free ingress or egress
2 of any person to and from any private residences or act or
3 conduct themselves in any manner that would have the effect to
4 obstruct or unreasonably interfere with free use of
5 residential driveways, streets, sidewalks, or rights-of-way
6 adjacent to a residence, or reasonably interfere with the
7 resident's right to quiet enjoyment, or where such picketing
8 of a residence has or intends the effect of violence or
9 intimidation, near or contiguous to a residence.

10 (c) It shall be unlawful for any person,
11 organization, corporation, union, agency, or other entity
12 thereof, singly or in concert with others, to use equipment or
13 any other object to obstruct or unreasonably interfere with
14 free ingress or egress of any person to and from any private
15 residence or place of business, or act or conduct themselves
16 in any manner that would have the effect as to obstruct or
17 unreasonably interfere with free use of residential driveways,
18 streets, sidewalks, or rights-of-way adjacent or contiguous to
19 a residence, or as to obstruct or unreasonably interfere with
20 free use of business entryways, streets, sidewalks, or
21 rights-of-way adjacent to or contiguous to a business, or
22 interfere in any other manner described in subsection (a).

23 (d) Each individual person guilty of violating this
24 section shall be guilty of a misdemeanor and, upon conviction
25 thereof, shall be fined not more than five hundred dollars
26 (\$500) or imprisoned in jail not more than six months, or both
27 such fine and imprisonment.

1 (e) It shall be no defense to a violation of this
2 section that an organization or individual engages in mass
3 picketing or mass demonstrations to further an objective in
4 the context of a labor dispute.

5 (f) For purposes of this section, "mass picketing"
6 and "mass demonstration" mean a picket or demonstration that
7 actually prevents an individual from the reasonable free
8 ingress to and egress from an entrance to any place of
9 employment or place of residence, either by obstructing the
10 free ingress and egress with the person's body or by placing a
11 vehicle or other physical obstruction for such purpose,
12 accompanied by an act or threat of violence, intimidation or
13 other threatening behavior. The term also includes picketing
14 or demonstrating that prevents the pursuit of any entrance to
15 a private residence, lawful work, or employment.

16 (g) If an organization or individual is engaged in
17 mass picketing or mass demonstration at a business or private
18 residence, the business or property owner may seek injunctive
19 relief without the showing of irreparable harm, if the court
20 finds the picketing to be in violation of subsections (a),
21 (b), or (c). A person or business who is injured or threatened
22 with injury, upon proper showing thereof, shall be afforded
23 relief in any court of competent jurisdiction to enjoin any
24 unlawful behavior made pursuant to this section. Nothing in
25 this section shall be interpreted to alter or change the
26 protections afforded under the federal labor laws, including

1 the National Labor Relations Act or the Labor Management
2 Relations Act.

3 (h) Nothing in this section shall be construed to
4 conflict with any federal law to the contrary.

5 (i) Nothing in this section shall be construed to
6 infringe and impede upon any individual's First Amendment
7 rights.

8 Section 3. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended, because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

16 Section 4. This act shall become effective July 1,
17 2015.