

IN THE SENATE

SENATE BILL NO. 1387

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LABOR ORGANIZATIONS; PROVIDING LEGISLATIVE INTENT; AMENDING
2 CHAPTER 20, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
3 44-2012, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROHIBIT CERTAIN
4 ACTIVITIES RELATING TO LABOR ORGANIZATIONS, TO PROVIDE FOR VIOLATIONS
5 AND PENALTIES AND TO PROVIDE FOR CHALLENGES BY INTERESTED PARTIES; AND
6 AMENDING SECTION 44-2012, IDAHO CODE, TO REDESIGNATE THE SECTION.
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. LEGISLATIVE INTENT. (1) The state of Idaho enacted the Right
10 to Work law in order to guarantee its citizens maximum individual freedom of
11 choice in the pursuit of employment and to be free from undue restraint and
12 coercion with regard to employment; and

13 (2) The Right to Work law further guarantees Idaho citizens' right to
14 work shall not be infringed or restricted in any way based on membership in,
15 affiliation with, or financial support of a labor organization; and

16 (3) The Right to Work law declares it to be unlawful to deduct from the
17 wages, earnings or compensation of an employee for dues, fees or assessments
18 to a labor organization unless the employee has first signed a written
19 authorization for such deductions; and

20 (4) Labor organizations have developed what are identified as market
21 recovery funds, job targeting funds and other such approaches, financed by
22 assessments and sums withheld from employee paychecks, but that offer no
23 guarantee they will ever directly benefit the employee; and

24 (5) As a practical matter such approaches result in undermining a
25 citizen's protections under the Right to Work law; and

26 (6) The development and use of such funds goes beyond labor
27 organizations' primary objectives, and allows labor organizations to
28 combine with non-labor groups to gain an unfair advantage and directly
29 undermine free and open competition; and

30 (7) It is the public policy of the state of Idaho that the development
31 and use of any such funds are not in the interest of Idaho citizens, and that
32 the development of and use of such funds shall be unlawful.

33 SECTION 2. That Chapter 20, Title 44, Idaho Code, be, and the same is
34 hereby amended by the addition thereto of a NEW SECTION, to be known and
35 designated as Section 44-2012, Idaho Code, and to read as follows:

36 44-2012. PROHIBITED ACTIVITY. (1) The provisions of this act shall be
37 known as "The Fairness in Contracting Act."

38 (2) No contractor or subcontractor may directly or indirectly receive
39 a wage subsidy, bid supplement or rebate on behalf of its employees, or
40 provide the same to its employees, the source of which are wages, dues or

1 assessments collected by or on behalf of any labor organization(s), whether
2 or not labeled as dues or assessments.

3 (3) No labor organization may directly or indirectly pay a wage subsidy
4 or wage rebate to its members in order to directly or indirectly subsidize
5 a contractor or subcontractor, the source of which are wages, dues or
6 assessments collected by or on behalf of its members, whether or not labeled
7 as dues or assessments.

8 (4) It is illegal to use any fund financed by wages collected by or
9 on behalf of any labor organization(s), whether or not labeled as dues or
10 assessments, to subsidize a contractor or subcontractor doing business in
11 the state of Idaho.

12 (5) Any contractor, subcontractor or labor organization that violates
13 the provisions of this section shall be guilty of a misdemeanor and fined
14 an amount not to exceed ten thousand dollars (\$10,000) for a first offense,
15 twenty-five thousand dollars (\$25,000) for a second offense, and one hundred
16 thousand dollars (\$100,000) for each and every additional offense.

17 (6) Any interested party, which shall include a bidder, offeror,
18 contractor, subcontractor or taxpayer, shall have standing to challenge any
19 bid award, specification, project agreement, controlling document, grant
20 or cooperative agreement in violation of the provisions of this section, and
21 such interested party shall be awarded costs and attorney's fees in the event
22 that such challenge prevails.

23 SECTION 3. That Section 44-2012, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 44-201~~2~~3. SEVERABILITY. The provisions of this chapter are hereby
26 declared to be severable, and if any provision is declared void, invalid,
27 or unenforceable in whole or in part, such declaration shall not affect the
28 remaining provisions of this chapter.