

2024 Regular Session

HOUSE BILL NO. 956

BY REPRESENTATIVE CREWS

LABOR: Creates the Employee Secret Ballot Protection Act

1 AN ACT

2 To enact Chapter 30 of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 42:1801 through 1811, relative to labor organizations; to create the Employee
4 Secret Ballot Protection Act; to provide for a short title; to provide for legislative
5 intent; to provide definitions; to require an employee's right to a secret ballot
6 election; to prohibit coercion and intimidation; to provide for penalties and civil
7 remedies; to require certain duties of the attorney general under certain
8 circumstances; to provide for enforcement; to provide for applicability; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 30 of Title 42 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 42:1801 through 1811, is hereby enacted to read as follows:

13 CHAPTER 30. EMPLOYEE SECRET BALLOT PROTECTION ACT

14 §1801. Short title

15 This Act shall be known and may be cited as the "Employee Secret Ballot
16 Protection Act".

17 §1802. Legislative intent

18 The legislature hereby finds and declares it to be the public policy of the state
19 that:

1 (1) An individual's freedom of choice in employment-related matters be
2 guarded and maintained.

3 (2) An employee shall have the right to use a secret ballot election when
4 selecting an exclusive bargaining representative.

5 (3) A secret ballot election upholds the sanctity of worker free choice.

6 (4) An employee shall be given the opportunity to cast a vote in accordance
7 with his conscience in secret ballot elections, free from coercion, intimidation,
8 threats, misinformation, or interference from outside influences.

9 (5) A labor organization shall not be able to pressure an employer to
10 recognize the labor organization as an exclusive bargaining representative based
11 solely on a showing of interest by an employee without a secret ballot election.

12 (6) An employer shall not bargain away an employee's rights to a secret
13 ballot election for labor representation purposes.

14 §1803. Definitions

15 For the purposes of this Chapter, the following terms have the meanings
16 ascribed to them:

17 (1) "Agency" means any governmental subdivision, district, charter school,
18 public or quasi-public corporation, public agency or public service corporation, or
19 any town, city, county, or city, county, or municipal corporation, whether
20 incorporated or not and whether chartered or not, in this state.

21 (2) "Attorney general" means the attorney general for the state of Louisiana
22 or his designee.

23 (3) "Court of competent jurisdiction" means any court, which is competent
24 and has jurisdiction over such actions pursuant to this Chapter, located in the parish
25 where the party bringing the action resides.

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

27 (5) "Employer" means any agency, as defined in this Chapter, or any group
28 or association of employers which is an employer within the meaning of any law of

1 this state or of the United States, but does not include the United States or any
2 corporation wholly owned by the government of the United States.

3 (6) "Exclusive bargaining representative" means any labor organization that
4 has been selected or designated by the attorney general pursuant to the provisions of
5 this Chapter as the representative of the employees in an appropriate collective
6 bargaining unit to represent the employees in their employment relations with
7 employers.

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

13 (8) "Secret ballot" means the expression by ballot or voting machine, but in
14 no event by proxy, of a choice with respect to any election or vote taken upon any
15 matter, which is cast in such a manner that the person expressing such choice cannot
16 be identified with the choice expressed.

17 §1804. Secret ballot elections; employee rights; administration

18 A. All employees, when seeking to select an exclusive bargaining
19 representative, shall have the right to make that selection in a secret ballot election.

20 B. The attorney general shall recognize a labor organization as the exclusive
21 bargaining representative only after a majority of employees in the collective
22 bargaining unit have indicated an affirmative approval of that recognition through
23 the use of secret ballots in an election, which shall be administered by the attorney
24 general.

25 C. Any agreement, understanding, or practice, written or oral, implied or
26 expressed, between any labor organization and employer that violates the rights of
27 employees as guaranteed by provisions of this Chapter is hereby declared to be
28 unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or
29 other action by a labor organization for the sole purpose of inducing or attempting

1 to induce an employer to enter into any agreement prohibited pursuant to this
2 Chapter is hereby declared to be for an illegal purpose and is a violation of the
3 provisions of this Chapter.

4 §1805. Denial of secret ballot elections deemed an unfair labor practice

5 A. It shall be an unfair labor practice by the employer to dominate or
6 interfere with the formation or administration of any labor organization or contribute
7 financial or other support to a labor organization or to recognize or bargain
8 collectively with a labor organization that has not been selected by a majority of
9 employees in a secret ballot election conducted by the attorney general.

10 B. It shall be an unfair labor practice by the labor organization to cause or
11 attempt to cause an employer to recognize or bargain collectively with a
12 representative of a labor organization that has not been selected by a majority of
13 employees in a secret ballot election conducted by the attorney general.

14 C. Any employee may file an unfair labor practice complaint pursuant to this
15 Chapter with the attorney general.

16 §1806. Coercion and intimidation prohibited

17 A. It shall be unlawful for any person, labor organization, officer, agent or
18 member, or employer, thereof, to threat or intimidate an employee or prospective
19 employee, or an employee’s or prospective employee’s parents, spouse, children,
20 grandchildren, or any other persons residing in the employee’s or prospective
21 employee’s home, or to damage or threaten damage to an employee’s or prospective
22 employee’s property, to compel or attempt to compel such employee to join, affiliate
23 with, or financially support a labor organization or to refrain from doing so, or
24 otherwise forfeit any rights as guaranteed by provisions of this Chapter.

25 B. It shall be unlawful to cause or attempt to cause an employee to be denied
26 employment or discharged from employment because of support or nonsupport of
27 a labor organization by inducing or attempting to induce any other person to refuse
28 to work with an employee.

1 §1807. Penalties

2 Any person who directly or indirectly violates any provision of this Chapter
3 shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a
4 fine not exceeding one thousand dollars or imprisonment for a period of not more
5 than six months, or both.

6 §1808. Civil remedies

7 A. Any employee harmed as a result of any violation or threatened violation
8 of the provisions of this Chapter shall be entitled to relief, including injunctive relief,
9 in the court of competent jurisdiction against any and all violators or persons
10 threatening violations and may recover any and all damages, including costs and
11 reasonable attorney fees, from any person resulting from such violation or threatened
12 violation. Such remedies shall be independent of and in addition to the penalties and
13 remedies prescribed in other provisions of this Chapter.

14 B. Any legal action against a labor organization shall be brought in the court
15 of competent jurisdiction where the alleged violation occurred or where the labor
16 organization maintains its principal office.

17 §1809. Duty to investigate

18 It shall be the duty of the attorney general to investigate complaints of
19 violation or threatened violations of this Chapter, to prosecute all persons violating
20 any of the provisions of this Chapter, and to take all means at his command to ensure
21 effective enforcement.

22 §1810. Enforcement

23 The attorney general shall enforce this Chapter and is authorized and directed
24 to promulgate rules and regulations in accordance with the Administrative Procedure
25 Act, R.S. 49:950 et. seq., necessary for the implementation of the provisions of this
26 Chapter.

27 §1811. Applicability

28 A. This Act shall not apply to collective bargaining relationships in which

1 a labor organization was lawfully recognized as an exclusive bargaining
2 representative before the date of the enactment of this Act.

3 B. This Act shall apply only to the following:

4 (1) Employers that are agencies as defined in R.S. 42:1803.

5 (2) All other employers in this state who are not subject to the National
6 Labor Relations Act of 1935 or any other applicable federal labor laws. To the
7 extent that federal law governs employment matters, this Act shall be invalid.

8 C. The provisions of this Section shall apply only to collective bargaining
9 rights already provided for in current state or federal law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 956 Engrossed

2024 Regular Session

Crews

Abstract: Creates the Employee Secret Ballot Protection Act.

Proposed law provides that proposed law shall be known and may be cited as the "Employee Secret Ballot Protection Act."

Proposed law provides that the legislature finds and declares it to be the public policy of the state that:

- (1) An individual's freedom of choice in employment-related matters be guarded and maintained.
- (2) An employee shall 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) An employee shall be given the opportunity to cast a voice in accordance with his conscience in secret ballot elections, free from coercion, intimidation, threats, misinformation, or interference from outside influences.
- (5) A labor organization shall not be able to pressure an employer to recognize the labor organization as an exclusive bargaining representative based solely on a showing of interest by an employee without a secret ballot election.
- (6) An employer shall not bargain away an employee's rights to a secret ballot election for labor representation purposes.

Proposed law defines agency, attorney general, court of competent jurisdiction, employee, employer, exclusive bargaining representative, labor organization, and secret ballot.

Proposed law provides all employees, when seeking to select an exclusive bargaining representative, shall have the right to make that selection in a secret ballot election.

Proposed law requires the attorney general to recognize a labor organization as the exclusive bargaining representative, only after a majority of employees in the collective bargaining unit have indicated an affirmative approval of that recognition through the use of secret ballots in an election, which shall be administered by the attorney general.

Proposed law prohibits any agreement, understanding, or practice between any labor organization and employer that violates the rights of the employees as guaranteed by the provisions of proposed law. Proposed law also prohibits any strike, picketing, boycott, or any other action by a labor organization for purposes of inducing or attempting to induce an employer to enter into any agreement prohibited under proposed law.

Proposed law provides that it shall be an unfair labor practice by an employer to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to a labor organization or to recognize or bargain collectively with a labor organization that has not been selected by a majority of employees in a secret ballot election conducted by the attorney general.

Proposed law provides that it shall be an unfair labor practice by the 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 employees in a secret ballot election conducted by the attorney general.

Proposed law allows an employee to file an unfair labor practice complaint with the attorney general.

Proposed law prohibits any person, labor organization, officer, agent or member, or employer from threatening or intimidating an employee or prospective employee, or an employee's or prospective employee's parents, spouse, children, grandchildren, or any other person residing in the employee's or prospective employee's home.

Proposed law prohibits any person, labor organization, officer, agent or member, or employer from damaging or threatening to damage an employee or prospective employee's property.

Proposed law prohibits any person, labor organization, officer, agent or member, or employer from compelling or attempting to compel an employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or otherwise forfeit any rights as guaranteed by provisions of proposed law.

Proposed law prohibits the denial of employment or discharge from employment of an employee because of support or nonsupport of a labor organization by inducing or attempting any other person to refuse to work with an employee.

Proposed law provides for a fine amount not to exceed \$1,000 or imprisonment not to exceed 6 months, or both, for any person who directly or indirectly violates any provisions of proposed law.

Proposed law grants an employee who is harmed as a result of any violation of proposed law relief, including injunctive relief and any damages, including costs and reasonable attorney fees, in the court of competent jurisdiction.

Proposed law requires any legal action against a labor organization to be brought in a court of competent jurisdiction where the alleged violation occurred or where the labor organization maintains its principal office.

Proposed law requires the attorney general to investigate complaints violation or threatened violations of proposed law, to prosecute all persons who violate any provisions of proposed law, and to take all means at his command to ensure effective enforcement.

Proposed law authorizes and directs the attorney general to promulgate rules and regulations necessary for the implementation of the provisions of proposed law.

Proposed law provides that proposed law shall not apply to collective bargaining relationships in which a labor organization was lawfully recognized as an exclusive bargaining representative before the date of the enactment of this proposed law.

Proposed law provides that proposed law shall only apply to the following:

- (1) Employers that are agencies as defined in proposed law (R.S. 42:1803).
- (2) All other employers in this state who are not subject to federal law or any other applicable federal labor laws. To the extent that federal law governs employment matters, proposed law shall be invalid.

(Adds R.S. 42:1801-1811)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Make a technical change.