

Amendments to the Taxpayer Dollars Protect Workers Act

Summary: This model policy requires employers receiving taxpayer-funded economic incentives to agree to safeguard the personal information of their employees and use the secret ballot in unionization elections as a condition of receiving those incentives.

SECTION 1 – Statement and Purpose:

WHEREAS, [insert state], as part of its economic development policy, has the right to set terms and conditions in connection with the awarding of economic development incentives; and

WHEREAS, [insert state], as part of its economic development policy, seeks to play an integral role in the formulation of economic opportunities, conditions of grants, and general management of compliance with such awards for monies; and

WHEREAS, [insert state] will oftentimes, as part of awarding economic development incentives, oversee compliance with land use regulations, including management of the subdivision of property; offer and provide water and wastewater services; require fire protection systems and mechanical systems for buildings and structures; approve capital grants; and ensure such monies are approved by the [insert state agency]; and

WHEREAS, [insert state] will oftentimes, as part of awarding economic development incentives, also require a private business to hire a certain number of new full-time employees, require a specific amount of company investment, and ensure workers obtain certain skills and knowledge; and

WHEREAS, [insert state], as part of its economic development policy, has a vested interest in seeking to advance and preserve its own interest in projects receiving economic development incentives as a financier of projects contributing to the State's overall economic health; and

WHEREAS, it is the intent of the [insert state legislature], as part of its economic development policy, that whenever State funds or benefits are sought by a private business that such benefits are conditioned on the private business agreeing not to waive its employees' right to a secret ballot election when recognizing a labor organization as a bargaining unit or requiring subcontractors to waive their employees' right to a secret ballot election; and

WHEREAS, it is the intent of the [insert state legislature] that whenever State funds or benefits are provided or awarded to a private business, the private business working on a project receiving State funds or benefits, shall not voluntarily disclose employee personal contact information to a labor organization without an employee's prior consent, waive their right to speak to their employees or requireing subcontractors to voluntarily disclose employee personal contact information to a labor organization without an employee's prior consent or waive the subcontractor's right to speak to the subcontractor's employees; now, therefore,

BE IT ENACTED BY THE [INSERT state legislature] OF THE STATE OF [INSERT STATE]:

SECTION 2:

(a) As used in this section:

(1) "Contracts" includes:

(A) Agreements between an employer and the state; and

(B) Agreements between an employer and a labor organization;

(2) "Economic development incentive" means a [insert state incentive program] grant and economic development grant authorized under this part or capital grant authorized under [insert chapter of state law] for economic development purposes provided to an employer to attract or retain the employer's physical presence in this state;

(3) "Employee" means an individual who performs services for an employer for wages that are subject to withholding requirements under 26 S.C. § 3402;

(4) "Employer" means a business entity that voluntarily pursues economic development incentives authorized under this title or enters into an agreement with this state for the purpose of receiving those incentives;

(5) "Labor organization" has the same meaning as defined in 29 S.C. § 152;

(6) "Personal contact information" means an employee's home address, home or personal cell phone number, or personal email address

(7) "Secret ballot election" means a process conducted by the National Labor Relations Board (NLRB) in which an employee casts a secret ballot for or against labor organization representation; and

(8) "Subcontractor" means an individual or entity that has contracted with the employer to perform work or provide services.

(9) "Neutrality agreement" means an agreement signed with a union wherein the employer agrees to conditions including, but not limited to committing not speak to employees about union issues;

(b) (1) To be eligible for an economic development incentive, an employer must not:

(A) Grant recognition rights for employees solely and exclusively on the basis of signed union authorization cards if the selection of a bargaining representative may instead be conducted through a secret ballot election conducted by the National Labor Relations Board (NLRB);

(B) Voluntarily disclose an employee's personal contact information to a labor organization, or third party acting on behalf of a labor organization, without the employee's prior written consent, unless otherwise required by state or federal law;

(C) Sign a neutrality agreement with a labor organization;

(DC) Require a subcontractor performing work for or providing services to the employer to engage in activities prohibited in this subdivision (b)(1).

(2) The prohibitions set out in subdivision (b)(1) apply to any work or service for the employer on the project for which the economic incentive is provided.

(c) A person or entity may report, based upon a reasonable belief, a suspected violation of subdivision (b)(1) to the [insert state agency or attorney general]; provided, that such report must

be made during the term of the separate agreement entered into by and between the [insert state agency] and the employer pursuant to [insert state law]. Upon receiving a report pursuant to this subsection (c), the [insert state agency or attorney general] shall determine whether a violation has occurred. It is a breach of the separate agreement entered into between the [insert state agency] and the employer pursuant to [insert state code section] for the employer to refuse to provide the written statement. If the [insert state agency] finds that an employer has violated subdivision (b)(1), then the department shall deliver written notice of the department's findings to the employer informing the employer and to the office of the attorney general to initiate proceedings to recover funds pursuant to [insert state code section].

(d) (1) This section applies prospectively and excludes:

(A) (A) An agreement between this state and an employer executed prior to the effective date of this act;

(B) An agreement between an employer and a labor organization executed prior to the effective date of this act; or

(2) As used in subdivision (d)(1)(A), "agreement" includes a memorandum of understanding mutually accepted by the [insert state agency] and an employer prior to the effective date of this act, including a legally binding agreement subsequent and subject to the memorandum of understanding.

(3) Notwithstanding (d)(1) this section shall apply to any agreement, contract, or memorandum of understanding between an employer and a labor organization or the state executed, renewed, or modified on or after the effective date of this act,

SECTION 3. [insert state] Code Annotated, Section [insert state code], is amended by adding the following as a new subsection:

(f)(1) Notwithstanding another law to the contrary, prior to contracting to award an economic development incentive, as defined in [insert state code], the [insert state agency] must execute a separate agreement with the recipient of the incentive that reserves the right of the [insert state agency] to recover the amount of money, grants, funds, or other incentives disbursed by the [state agency] if the recipient benefitting from such money, grants, funds, or other incentives fails to comply with [this section/ insert state code].

The separate agreement required by subdivision (f)(1) must have a term of not less than:

(A) The term the [insert state agency] would require for an agreement executed pursuant to [insert state code], for an economic development incentive of less than five million dollars (\$5,000,000); or

(B) Twenty (20) years, for an economic development incentive of five million dollars (\$5,000,000) or more.

SECTION 4. This act takes effect [insert date] and, except as otherwise provided in this act, applies to contracts executed, renewed, or modified on or after that date.