

# PUBLICATION

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## Mississippi's Right to Work State Status Made Stronger with Three New Bills

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**July 17, 2014**

Mississippi's current Constitution, adopted in 1890, confirmed the State's intention to be a "right to work" state:

It is hereby declared to be the public policy of Mississippi that the right of a person or persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization. Any agreement or combination between any employer and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination or conspiracy and against public policy. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer. (Mississippi Constitution, Art. 7, § 198-A.)

Fast-forward 124 years, and that right to work is reflected in the surprisingly low number of unionized workers in Mississippi. Per the U.S. Bureau of Labor Statistics, only 4.2% of Mississippi's 1,040,000 workers (43,680 total) are represented by unions.

In an effort to keep these numbers low, Mississippi enacted three new laws that took effect July 1, 2014. The first, SB 2473, known as the "Prohibition Against Employer Intimidation Act," prohibits any "person, organization, corporation, union, agency or other entity thereof" from damaging, harming, injuring, threatening to injure, or coercing a business or its employees "with the intent to unlawfully intimidate the business or its employees from exercising their rights, which are protected by state and federal law, in an effort to obtain something of value" for a union. SB 2473, Section 3(1)(a). "Something of value" includes "a neutrality agreement, card check agreement, recognition or any other objective that is motivating such activities." *Id.* at Section 3(2).

SB 2653 prohibits a "union, labor union or agency thereof" from mass picketing and demonstrations that "obstruct or unreasonably interfere with free ingress or egress" to or from the entrances of any place of business, including "business entry ways, streets, sidewalks, rights-of-ways adjacent or contiguous to a business." SB 2653, Section 1(1)(a). It also prohibits a union from mass picketing and demonstrations that obstruct or unreasonably interfere with the entrances of private residences. *Id.* at Section 1(1)(b). Additionally, SB 2653 prohibits the use of equipment or other objects to obstruct the entrances of business and private residences. *Id.* at Section 1(2). Violation of this statute is a misdemeanor, and violators, upon conviction, are subject to a fine of \$500.00, six months in prison, or both. *Id.* at Section 1(3).

SB 2797, known as the "Mississippi Employment Fairness Act," gives the State of Mississippi the exclusive authority to regulate labor peace agreements and project labor agreements. A "labor peace agreement" is "an arrangement between a union and employer under which one or both entities agree to waive certain rights under federal law with regard to union organizing and related activity," and a "project labor agreement" is "a collective bargaining agreement with one or more labor unions that establishes the terms and conditions of employment for a specific construction project, before employees are hired to work on such project." SB 2797,

Section 3(f) and (g). Specifically, only the State can require an employer to enter into a labor peace agreement or project labor agreement. *Id.* at Sections 4(1) and 5(1).

It will be interesting to see how these Mississippi laws are used and whether unions will challenge their constitutionality under the federal National Labor Relations Act.