

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Posey

310-2230-03

1 A bill to be entitled

2 An act relating to the entertainment industry;

3 providing a short title; creating s. 447.095,

4 F.S.; providing a definition; applying s. 6,

5 Art. I of the State Constitution, to the

6 entertainment industry; prohibiting certain

7 employment practices by employers in the

8 entertainment industry and by labor

9 organizations; voiding certain agreements

10 between employers and labor organizations;

11 resolving conflicts with federal law or

12 regulations; reenacting s. 447.14, F.S.,

13 relating to penalties; reenacting and amending

14 s. 447.17, F.S., relating to civil remedies and

15 injunctive relief; providing remedies and

16 relief for violations; providing a definition;

17 requiring the state, political subdivisions,

18 contractors, and subcontractors to give

19 preference in procurement of entertainment

20 production services to qualified production

21 companies under certain circumstances;

22 providing an effective date.

24 Be It Enacted by the Legislature of the State of Florida:

26 Section 1. This act may be cited as the "Barry Plans
27 Florida Entertainment Industry Equity Act."

28 Section 2. Section 447.095, Florida Statutes, is
29 created to read:

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1 447.095 Right to work in entertainment industry;
2 unlawful employment practices; union-security agreements
3 void.--

4 (1) As used in this section, the term "entertainment
5 industry" has the same meaning ascribed in s. 288.125.

6 (2) Section 6, Article I of the State Constitution
7 shall apply to the entertainment industry in this state.

8 (3) It is a violation of this chapter for an employer
9 in the entertainment industry to do any of the following:

10 (a) Refuse to hire a person because he or she:

11 1. Is or is not a member of a labor organization;

12 2. Agrees or does not agree to become a member of a
13 labor organization after a grace period or within a specified
14 period of time; or

15 3. Agrees or does not agree to pay initiation fees or
16 membership dues, or any other type of payment in lieu of
17 initiation fees or membership dues, including, but not limited
18 to, financial-core fees, to a labor organization.

19 (b) Fine, discharge, discipline, or otherwise
20 discriminate against an employee because he or she:

21 1. Is or is not a member of a labor organization;

22 2. Becomes or refuses to become a member of a labor
23 organization; or

24 3. Pays or does not pay initiation fees or membership
25 dues, or any other type of payment in lieu of initiation fees
26 or membership dues, including, but not limited to,
27 financial-core fees, to a labor organization.

28 (c) Threaten to fine, discharge, discipline, or
29 otherwise discriminate against an employee unless he or she:

30 1. Becomes, does not become, or ceases to be a member
31 of a labor organization; or

1 2. Pays or does not pay initiation fees or membership
2 dues, or any other type of payment in lieu of initiation fees
3 or membership dues, including, but not limited to,
4 financial-core fees, to a labor organization.

5 (4) It is a violation of this chapter for a labor
6 organization to do any of the following:

7 (a) Fine, suspend, expel, or otherwise discipline a
8 member of the labor organization because the member is
9 employed or was employed by an employer in the entertainment
10 industry which complies with subsection (3).

11 (b) Fine or otherwise discipline an employer in the
12 entertainment industry, under an agreement between the labor
13 organization and the employer, because the employer complies
14 with subsection (3).

15 (5) A union-security agreement between a labor
16 organization and an employer in the entertainment industry,
17 including an agreement described in s. 8(a)(3) of the National
18 Labor Relations Act, 29 U.S.C. s. 158(a)(3), is void to the
19 extent that the agreement requires an employer to violate
20 subsection (3).

21 (6) If any provision of this section conflicts with
22 federal law or regulations, including, but not limited to, s.
23 14(b) of the National Labor Relations Act, 29 U.S.C. s.
24 164(b), the federal law or regulation shall control to the
25 extent of the conflict.

26 Section 3. Section 447.14, Florida Statutes, is
27 reenacted to read:

28 447.14 Penalties.--Any person or labor organization
29 who shall violate any of the provisions of this part shall be
30 guilty of a misdemeanor of the second degree, punishable as
31 provided in s. 775.082 or s. 775.083.

1 Section 4. Section 447.17, Florida Statutes, is
2 reenacted and amended to read:

3 447.17 Civil remedy; injunctive relief.--

4 (1) Any person who may be denied employment or
5 discriminated against in his or her employment on account of
6 membership or nonmembership in any labor union or labor
7 organization, or any person or employer sustaining injury as a
8 result of any violation of s. 447.095, is ~~shall be~~ entitled to
9 recover from the discriminating employer, other person, firm,
10 corporation, labor union, labor organization, or association,
11 acting separately or in concert, in the courts of this state,
12 such damages as he or she may have sustained and the costs of
13 suit, including reasonable attorney's fees. If such employer,
14 other person, firm, corporation, labor union, labor
15 organization, or association acted willfully and with malice
16 or reckless indifference to the rights of others, punitive
17 damages may be assessed against such employer, other person,
18 firm, corporation, labor union, labor organization, or
19 association.

20 (2) Any person sustaining injury as a result of any
21 violation or threatened violation of the provisions of this
22 section shall be entitled to injunctive relief against any and
23 all violators or persons threatening violation.

24 (3) The remedy and relief provided for by this section
25 shall not be available to public employees as defined in part
26 II of this chapter.

27 Section 5. Contracts for entertainment production
28 services; preference given to qualified production
29 companies.--

30 (1) As used in this section, the term "entertainment
31 production services" means those services provided by the

1 entertainment industry as defined in section 288.125, Florida
2 Statutes.

3 (2) Each state agency or political subdivision, and
4 each contractor or subcontractor of an agency or political
5 subdivision, procuring entertainment production services with
6 public funds on behalf of the state or a political subdivision
7 must give preference to a qualified production company that
8 holds a valid certificate of exemption issued under section
9 288.1258, Florida Statutes, if the agency, political
10 subdivision, contractor, or subcontractor receives at least
11 two competitive bids, the bids are equal with respect to
12 quality, design, workmanship, and service, and the bids are
13 within 2 percent with respect to price.

14 Section 6. This act shall take effect October 1, 2003.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 1706

19 The committee substitute replaces the original bill and
20 prohibits certain employment practices by employers or labor
21 organizations in the entertainment industry based on an
22 employee's membership or non-membership in a labor
23 organization or the payment or nonpayment of initiation fees,
24 membership dues, or financial-core fees to a labor
25 organization; provides criminal penalties for violations;
26 authorizes civil actions for damages, costs, and attorney's
27 fees; voids union-security agreements between employers and
28 labor organizations which require violations; provides for the
29 resolution of conflicts with federal law and regulations;
30 requires state agencies, political subdivisions, and their
31 contractors and subcontractors to give preference to qualified
production companies in the procurement of entertainment
production services with public funds.