

By Senator Stewart

13-01300A-18

20181748__

1 A bill to be entitled
2 An act relating to labor contracts; amending s.
3 448.102, F.S.; providing that certain provisions in
4 labor contracts are unconscionable, void, and
5 unenforceable; providing exceptions; specifying a
6 cause of action; authorizing damages; providing a
7 statute of limitations; providing applicability;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 448.102, Florida Statutes, is amended to
13 read:

14 448.102 Prohibitions.—

15 (1) RETALIATORY PERSONNEL ACTION.—An employer may not take
16 any retaliatory personnel action against an employee because the
17 employee has:

18 (a)~~(1)~~ Disclosed, or threatened to disclose, to any
19 appropriate governmental agency, under oath, in writing, an
20 activity, policy, or practice of the employer that is in
21 violation of a law, rule, or regulation. However, this paragraph
22 ~~subsection~~ does not apply unless the employee has, in writing,
23 brought the activity, policy, or practice to the attention of a
24 supervisor or the employer and has afforded the employer a
25 reasonable opportunity to correct the activity, policy, or
26 practice.

27 (b)~~(2)~~ Provided information to, or testified before, any
28 appropriate governmental agency, person, or entity conducting an
29 investigation, hearing, or inquiry into an alleged violation of

13-01300A-18

20181748__

30 a law, rule, or regulation by the employer.

31 (c)~~(3)~~ Objected to, or refused to participate in, any
32 activity, policy, or practice of the employer which is in
33 violation of a law, rule, or regulation.

34 (2) CONTRACTS; PROHIBITED PROVISIONS.-

35 (a)1. Any provision of a contract or agreement that waives
36 a substantive or procedural right or remedy relating to a claim
37 of discrimination, retaliation, harassment, or a violation of
38 public policy in employment is unconscionable, void, and
39 unenforceable with respect to any such claim arising after the
40 contract or agreement with the waiver is entered into.

41 2. A provision of a contract or agreement that is void and
42 unenforceable because of such a waiver does not affect the
43 validity of the remainder of the contract or agreement.

44 3. This paragraph does not apply to the terms of a
45 collective bargaining agreement between an employer and the bona
46 fide collective bargaining representative of that employer's
47 employees.

48 (b) Any provision of a contract or agreement that conceals
49 details relating to a claim of discrimination, retaliation,
50 harassment, or a violation of public policy in employment,
51 including claims that are submitted to arbitration, is
52 unconscionable, void, and unenforceable. This paragraph does not
53 apply to the terms and conditions of an award issued by an
54 arbitrator pursuant to chapter 682, the Revised Florida
55 Arbitration Code, or the amount of any monetary consideration
56 provided in a settlement.

57 (c) An employer may not take any retaliatory action,
58 including, but not limited to, failure to hire, discharge,

13-01300A-18

20181748__

59 suspension, demotion, discrimination in the terms, conditions,
60 or privileges of employment, or other adverse action against a
61 person because the person does not enter into a contract or
62 agreement that contains a waiver deemed unconscionable, void, or
63 unenforceable under this subsection.

64 (d) An employer who enforces or attempts to enforce a
65 waiver deemed unconscionable, void, or unenforceable under this
66 subsection is liable for reasonable court costs and attorney
67 fees.

68 (e) A person aggrieved of a violation of this subsection
69 may, within 3 years after the violation, bring an action in a
70 court of competent jurisdiction for compensatory damages,
71 injunctive relief, and reasonable court costs and attorney fees.
72 The rights and remedies provided in this subsection shall not be
73 exclusive and shall not preempt other procedures and remedies
74 available under other applicable laws.

75 (f) This subsection applies to any contract renewed or
76 entered into on or after July 1, 2018.

77 Section 2. This act shall take effect July 1, 2018.