



THE MISSOURI BAR

Labor & Employment Law Committee



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LABOR/EMPLOYMENT LAW LEGISLATIVE UPDATE

Missouri Bar Labor and Employment Committee

Spring 2007 Meeting

Bills introduced - history and status

SB 1 – Background checks for certain employees. Requires criminal background checks for certain employees in positions with substantial direct contact with children.

(1) Requires the hiring state agency or private employer with more than ten employees to request a criminal background check for any position with substantial direct contact with children under the age of sixteen.

(2) Defines a “position with substantial direct contact with children” as any position in which the employee is in the physical presence of or within close proximity to a child or children at least 50% of the time he or she is working.

(3) Prohibits a state agency from hiring any individual for a position with substantial direct contact with children less than sixteen years of age, who has pleaded guilty to or been found guilty of any offense for which a person must register as a sexual offender. Prohibits a state agency, board or commission from hiring an applicant who fails to disclose his or her criminal history.

12/1/2006 Prefiled

1/3/2007 S First Read S6

1/16/2007 Second Read and Referred S Judiciary and Civil & Criminal Jurisprudence Committee S104

2/5/2007 Hearing Conducted S Judiciary and Civil & Criminal Jurisprudence Committee

2/19/2007 SCS Voted Do Pass S Judiciary and Civil & Criminal Jurisprudence Committee (0489S.06C)

SB 33 – Health care costs. Requires large employers to dedicate a percentage of profits for health care costs.

12/1/2006 Prefiled

1/3/2007 S First Read S8

1/16/2007 Second Read and Referred S Health and Mental Health Committee S105

1/23/2007 Hearing Conducted S Health and Mental Health Committee

SB 93 – Employment of past commissioners. Prohibits commissioners and certain employees of the Public Service Commission from being employed by a public utility for two years after leaving the Commission.

12/1/2006 Prefiled

1/3/2007 S First Read S11-12
1/17/2007 Second Read and Referred S Commerce, Energy and the Environment Committee
S113

SB 146 – Public Employee Due Process Act. (See Education/School Law)

12/1/2006 Prefiled
1/3/2007 S First Read S15
1/17/2007 Second Read and Referred S Financial & Governmental Organizations and Elections
Committee S114

SB 168 – Wrongful discharge. Prohibits the discharge of employees when elements of a whistle-blower cause of action for wrongful discharge are established. This cause of action is established if an employee proves by a preponderance of the evidence that the employee reported to the proper authorities conduct that constitutes an actual violation of a statute, constitutional provision, or regulation; the employee was discharged; and the discharge was caused by the report. Prohibits the discharge of employees when elements of a refusal to commit an illegal act cause of action for wrongful discharge are established. This cause of action is established if an employee proves by a preponderance of the evidence that the employer directed the employee to perform conduct that actually violated a statute, constitutional provision, or regulation; the employee specifically refused to perform the act; the employee was discharged and the discharge was caused by the refusal to perform the act.

12/14/2006 Prefiled
1/3/2007 S First Read S17
1/17/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S114
2/20/2007 Hearing Conducted S Small Business, Insurance & Industrial Relations Committee
3/13/2007 SCS Voted Do Pass S Small Business, Insurance & Industrial Relations Committee (0191S.05C)
3/15/2007 Reported from S Small Business, Insurance & Industrial Relations Committee to Floor w/SCS S583
3/29/2007 Bill Placed on Informal Calendar S683
4/25/2007 S Informal Calendar S Bills for Perfection

SB 175 – Modifies the prevailing wage law. Sets forth new definitions for the purpose of prevailing wage. Establishes wage notice requirements for projects and penalties for contractors who pay workers less than the prevailing rate. Authorizes the Department of Labor and Industrial Relations to collect any unpaid penalties due to the department. Creates and modifies procedures for setting the prevailing wage and enforcement thereof.

12/18/2006 Prefiled
1/3/2007 S First Read S17-18

1/17/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S115
2/6/2007 Hearing Scheduled But Not Heard S Small Business, Insurance & Industrial Relations
Committee

SB 178 (See also SB 424) – Classification of employees. Bars employers from misclassifying employees as independent contractors. Requires employers to submit federal IRS 1099-MISC forms to the Department of Revenue, and creates penalties for failing to do so. Authorizes the Attorney General to investigate alleged misclassifications and enforce the section.

12/18/2006 Prefiled
1/3/2007 S First Read S18
1/17/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S115
2/6/2007 Hearing Conducted S Small Business, Insurance & Industrial Relations Committee
3/13/2007 SCS Voted Do Pass S Small Business, Insurance & Industrial Relations Committee

SB 180 – Public projects. Amends law relating to the hiring of unqualified employees on public projects. Prohibits employers from employing or subcontracting with any illegal alien on any publicly funded project. Establishes a fine if an employer employs an illegal alien for a public project of ten dollars per individual per day during which the illegal alien was employed, and prohibits the employer shall not be permitted to bid on any publicly funded project for ten years from the violation. Under current law, during a period of excessive unemployment in the state, only Missouri laborers or laborers from nonrestrictive states may be employed for public projects. This act provides a penalty of ten dollars per day for each nonqualifying laborer employed during such periods to be imposed on employers who engage in such a practice.

12/18/2006 Prefiled

1/3/2007 S First Read S18

1/17/2007 Second Read and Referred S Pensions, Veterans' Affairs and General Laws Committee S115

3/14/2007 Hearing Conducted S Pensions, Veterans' Affairs and General Laws Committee

SB 181 (See also HB 533) – Pubic Service Accountability Act. (See Local Government Law)

12/18/2006 Prefiled

1/3/2007 S First Read S18

1/17/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S115

2/6/2007 Hearing Conducted S Small Business, Insurance & Industrial Relations Committee

SB 249 (See also SB 255, SB 279 and HB 517) Federal standards for overtime wages for public employees. Reinstates the Federal overtime standards for public employees that were in place before the passage of Proposition B (2006) including exemptions for comp-time and flex-time rates.

1/11/2007 S First Read S92

1/18/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S122

1/30/2007 Hearing Conducted S Small Business, Insurance & Industrial Relations Committee

1/30/2007 SCS Voted Do Pass (SCS/SBs 255, 249 & 279) S Small Business, Insurance & Industrial Relations Committee - Consent (1205.03C)

2/1/2007 Reported from S Small Business, Insurance & Industrial Relations Committee to Floor w/SCS - Consent S182

2/1/2007 Removed S Consent Calendar S185

2/8/2007 Reported from S Small Business, Insurance & Industrial Relations Committee to Floor w/SCS S223

2/13/2007 Bill Placed on Informal Calendar S241

2/20/2007 SS for SCS S offered & adopted (Loudon)--(1250S.04F) S292

2/20/2007 Perfected S292

2/20/2007 Reported Truly Perfected S Rules Committee S293

2/20/2007 Referred S Governmental Accountability and Fiscal Oversight Committee S295

2/22/2007 Voted Do Pass S Governmental Accountability and Fiscal Oversight Committee

2/22/2007 Reported from S Governmental Accountability and Fiscal Oversight Committee to Floor S322

2/28/2007 S Third Read and Passed - EC adopted S357 / H512

2/28/2007 H First Read (w/EC) H512

3/1/2007 H Second Read H518

3/29/2007 Referred H Special Committee on General Laws Committee H851

4/5/2007 Hearing Conducted H Special Committee on General Laws Committee

4/5/2007 HCS Voted Do Pass H Special Committee on General Laws Committee

4/5/2007 HCS Reported Do Pass H Special Committee on General Laws Committee H1011

4/5/2007 Referred to Rules Committee pursuant to Rule 25(26)(f) H1011

SB 266 – Discrimination based on sexual orientation. Defines “sexual orientation” as male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one’s biological gender. Specifies that discrimination includes cases where unfair treatment results from the guilty party’s mere assumptions about the victim’s characteristics of race, religion, etc., whether or not such assumptions are true or false.

Such discrimination includes unlawful housing practices, denial of loans or other financial assistance, denial of membership into an organization relating to the selling or renting of dwellings, unlawful employment practices, and denial of the right to use public accommodations.

1/11/2007 S First Read S93

1/18/2007 Second Read and Referred S Judiciary and Civil & Criminal Jurisprudence Committee S122

SB 267 – Medical coverage. Allows small employers to obtain medical coverage through the Missouri Consolidated Health Care Plan.

1/11/2007 S First Read S93

1/18/2007 Second Read and Referred S Health and Mental Health Committee S122

2/13/2007 Hearing Conducted S Health and Mental Health Committee

SB 285 – Protects the conscience rights of pharmaceutical professionals. (See Health/Hospital Law)

1/16/2007 S First Read S102

1/22/2007 Second Read and Referred S Judiciary and Civil & Criminal Jurisprudence Committee S132

2/19/2007 Hearing Cancelled S Judiciary and Civil & Criminal Jurisprudence Committee

2/26/2007 Hearing Conducted S Judiciary and Civil & Criminal Jurisprudence Committee

SB 301 – Creates a tax credit for family friendly work programs. (See Taxation Law)

1/17/2007 S First Read S112

1/22/2007 Second Read and Referred S Ways & Means Committee

SB 336 – Equal pay for equal work. Requires equal pay for the same work regardless of gender and establishes a commission to study wage disparities. Prohibits employers from paying any employee lower wages than those paid to employees of the opposite gender for the same work. Creates a civil cause of action against employers who engage in discriminatory practice based on gender. Excludes wage payment differentials based on merit systems, regional economic factors, factors that measure pay due to output, or other bona fide factors other than gender from civil action. Prohibits employers from reducing wages to comply with this act or retaliating against employees that seek the legal protections from retaliation provided by this act. If employers retaliate, allows employees to recover actual and compensatory damages. Remedies for any unlawful gender-based pay practices include: actual and compensatory damages, injunction, and recovery of court costs and attorneys fees. Abolishes the six-month statute of limitations for filing an action for employer violations and requires that an action be brought within two years after the violation occurs or the date of reasonable discovery of such a violation. Establishes the Equal Pay Commission to study the causes and consequences of wage disparities. The act imposes certain record-keeping and reporting requirements upon employers to document wage rates.

1/22/2007 S First Read S130

1/25/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S158

SB 339 – Fairness in Public Construction Act (Signed by the Governor). Prohibits the state, or any agency or instrumentality of the state from requiring, or prohibiting, bidders from entering into agreements with labor organizations when entering into contracts for the construction of public projects funded by more than fifty percent by the state. Prohibits discrimination against bidders for such contracts based upon a bidder's affiliation with a labor organization. Provides conditions upon which the state or a political subdivision may enter into a union-only project labor agreement. The intent to enter into a union-only project labor agreement shall be published in a document titled "Intent to Enter Into a Project Labor Agreement." Requires public hearing be conducted on whether to require a union-only project

labor agreement. The finding may be appealed to the Labor and Industrial Relations Commission. Bars contractors and subcontractors from receiving subsidies, supplements, or rebates if the practice reduces the wage rates paid by the employer on a given occupational title below the prevailing wage rate. Violators are liable to the public body double the dollar amount per hour that the rebate reduced the wage rate below the prevailing wage. Repeals language requiring contractor's bonds to include provisions guaranteeing faithful performance of the prevailing wage clause provided by contract.

1/22/2007 S First Read S130
1/25/2007 Second Read and Referred S Small Business, Insurance & Industrial Relations Committee S158
2/6/2007 Hearing Conducted S Small Business, Insurance & Industrial Relations Committee
2/8/2007 SCS Voted Do Pass S Small Business, Insurance & Industrial Relations Committee (1248S.06C)
2/8/2007 Reported from S Small Business, Insurance & Industrial Relations Committee to Floor w/SCS S223
2/13/2007 Bill Placed on Informal Calendar S241
2/20/2007 SA 1 to SCS S offered & defeated (Bray)--(1248S06.01F) S292
2/20/2007 SCS S adopted S292
2/20/2007 Perfected S292
2/20/2007 Reported Truly Perfected S Rules Committee S293
2/21/2007 S Third Read and Passed S307
2/22/2007 H First Read H461
2/26/2007 H Second Read H470
2/26/2007 Referred H Special Committee on Workforce Development & Workplace Safety Committee H476
3/1/2007 Hearing Conducted H Special Committee on Workforce Development & Workplace Safety Committee
3/1/2007 Voted Do Pass H Special Committee on Workforce Development & Workplace Safety Committee
3/1/2007 Reported Do Pass H Special Committee on Workforce Development & Workplace Safety Committee H525
3/1/2007 Referred to Rules Committee pursuant to Rule 25(26)(f) H525
3/7/2007 Hearing Conducted H Rules Committee
3/7/2007 Voted Do Pass H Rules Committee
3/7/2007 Reported Do Pass H Rules Committee pursuant to Rule 25 (26)(f)
3/14/2007 H Third Read and Passed H674-675 / S562
3/14/2007 Truly Agreed To and Finally Passed S562
3/15/2007 Reported Duly Enrolled S Rules Committee S593
3/15/2007 Signed by Senate President S593
3/15/2007 Signed by House Speaker H718 / S598
3/15/2007 Delivered to Governor S598
3/22/2007 Signed by Governor S605

SB 348 –Missouri Omnibus Immigration Act.

1/23/2007 S First Read S136
1/25/2007 Second Read and Referred S Pensions, Veterans' Affairs and General Laws Committee S158
3/14/2007 Hearing Conducted S Pensions, Veterans' Affairs and General Laws Committee
4/11/2007 SCS Voted Do Pass S Pensions, Veterans' Affairs and General Laws Committee (1660S.05C)
4/12/2007 SCS Reported from S Pensions, Veterans' Affairs and General Laws Committee to Floor S847
4/25/2007 S Formal Calendar S Bills for Perfection

HB 85 – Employing an illegal alien.

12/06/2006 Prefiled (H)
01/03/2007 H 24 Read First Time (H)
01/04/2007 H 63 Read Second Time (H)
1/24/2007 H 201 Referred: Special Committee on Immigration (H)
02/07/2007 Public Hearing Completed (H)
02/28/2007 Executive Session Completed (H)
02/28/2007 HCS Voted Do Pass (H)

03/01/2007 H 524 HCS Reported Do Pass (H)
03/01/2007 H 524 Referred: Rules Pursuant to Rule 25(21)(f) (H)
03/07/2007 Rules - Executive Session Completed (H)
03/07/2007 Rules - Voted Do Pass (H)
03/12/2007 Rules - Executive Session Completed (H)
03/12/2007 Rules - Voted to Return to Committee of Origin (H)
03/13/2007 H 654 Rules - Returned to the Committee of Origin (H)
03/28/2007 Executive Session Completed (H)
03/28/2007 HCS Voted Do Pass (H)
03/30/2007 H 873 HCS Reported Do Pass (H)
03/30/2007 H 873 Referred: Rules Pursuant to Rule 25(21)(f) (H)
04/05/2007 Rules - Executive Session Completed (H)
04/05/2007 Rules - Voted Do Pass (H)
04/05/2007 H 1013 Rules - Reported Do Pass (H)

HB 342 – Prevailing wage law. Exempts public works projects with a total cost of \$750,000 or less from the prevailing hourly rate in any county of the third classification if approved by the governing body by majority vote.

01/11/2007 H 119 Introduced and Read First Time (H)
01/16/2007 H 126 Read Second Time (H)

HB 374 – Employment law. Requires an employer to verify that an employee has a valid Social Security number.

01/11/2007 H 121 Introduced and Read First Time (H)
01/16/2007 H 126 Read Second Time (H)

HB 376 – Unlawful employment practice. Makes it an unlawful employment practice to subject an employee to an abusive work environment or to retaliate against an employee who opposes that type of environment. Makes an employer liable for an unlawful employment practice committed by his or her employee. Prohibits retaliation against an employee because he or she opposed any unlawful employment practice or has made a charge, testified, assisted, or participated in any internal proceeding, arbitration and mediation proceeding, or legal action. Allows an employer found guilty of an unlawful employment practice to be enjoined from engaging in the practice and requires the employer to provide any relief deemed necessary by the court. Creates a private right of action to enforce the provisions of the bill and requires the action to commence within one year after the last act that comprises the alleged unlawful employment act.

01/11/2007 H 122 Introduced and Read First Time (H)
01/16/2007 H 126 Read Second Time (H)
03/29/2007 H 850 Referred: Spec Com on Workforce Dev & Workplace Safety (H)

HB 439 – Labor organizations. Specifies that no person as a condition of employment be required to:

- (1) Become or refrain from becoming a member of a union;
- (2) Pay dues, fees, assessments, or other charges to labor organizations; or
- (3) Pay to a third party any equivalent amounts in lieu of dues, fees, assessments, or other charges.

voids any agreement between a labor organization and an employer that violates the rights of employees. Provides that violation of the bill is a class C misdemeanor, and any person injured by a violation of the bill may recover all resulting damages.

01/17/2007 H 133 Introduced and Read First Time (H)
01/18/2007 H 138 Read Second Time (H)
01/25/2007 H 211 Referred: Spec Com on Workforce Dev & Workplace Safety (H)
02/28/2007 Public Hearing Completed (H)
02/28/2007 Executive Session Completed (H)
02/28/2007 Voted Do Pass (H)
03/01/2007 H 525 Reported Do Pass (H)
03/01/2007 H 525 Referred: Rules Pursuant to Rule 25(21)(f) (H)
03/07/2007 Rules - Executive Session Completed (H)
03/07/2007 Rules - No Action Taken (H)
03/15/2007 Rules - Executive Session Completed (H)
03/15/2007 Rules - Voted Do Pass (H)
04/04/2007 H 981 Rules - Reported Do Pass (H)

HB 440 – Disclosure of labor union finances. Requires labor unions that are not subject to the federal Labor Management Reporting and Disclosure Act to publicly disclose the following information concerning their finances:
(1) Assets including cash, accounts receivable, loans receivable, United States treasury securities, investments, and other assets;
(2) Liabilities including accounts payable, loans payable, mortgages, and other liabilities;
(3) Cash receipts from sources including dues, fees, sales, interest, rent, and dividends;
(4) Cash disbursements including negotiation, administration, organization, lobbying, political, benefits, overhead, gifts, and contributions; and
(5) Membership status including active, inactive, associate, apprentice, retired, and others. Specifies fines and penalties for noncompliance. These provisions mirror the federal Lundrum-Griffin Act.

01/17/2007 H 133 Introduced and Read First Time (H)
01/18/2007 H 138 Read Second Time (H)
03/08/2007 H 617 Referred: Spec Com on Workforce Dev & Workplace Safety (H)
04/11/2007 Public Hearing Scheduled, Bill not Heard (H)

HB 441 – Political activities by labor organizations. Requires expenditures for political activities by labor organizations to be made exclusively from a fund established for that purpose. Requires labor organizations to notify their members that contributions to the fund are voluntary, are for political purposes, and that no reprisal or loss of membership will result from nonparticipation. Prohibits employers from making contributions on behalf of their employees, and prohibits organizations from reimbursing their members for contributions to the fund. Any person or entity in violation of the provisions of the bill will be guilty of a class C misdemeanor.

01/17/2007 H 133 Introduced and Read First Time (H)
01/18/2007 H 138 Read Second Time (H)
03/08/2007 H 617 Referred: Spec Com on Workforce Dev & Workplace Safety (H)

HB 566 – Labor organization dues. Gives the state priority to any moneys owed to it before any union dues are paid to a labor organization. This bill specifies that if any person who pays dues to a labor organization owes money for any order by a state court or agency, the state will have priority and the money will be paid to the state before any dues are paid to a labor organization.

01/24/2007 H 188 Introduced and Read First Time (H)
01/25/2007 H 210 Read Second Time (H)
03/08/2007 H 617 Referred: Spec Com on Workforce Dev & Workplace Safety (H)

HB 591 – Publicly financed projects. Prohibits a person from employing or subcontracting with an illegal alien on any publicly financed project. Requires all publicly financed project employers to require and review the documentation necessary to verify that employees are not illegal aliens and are eligible for

employment. Any employer in violation, in addition to any other penalty, will be fined \$10 per illegal worker per day and will not be eligible to bid on any publicly financed project for 10 years after the violation.

01/25/2007 H 217 Introduced and Read First Time (H)
01/29/2007 H 226 Read Second Time (H)
03/29/2007 H 850 Referred: Special Committee on Immigration (H)
04/11/2007 Public Hearing Completed (H)

HB 598 – Unemployment benefits. Specifies that any person owning an interest in a business, who by reason of ownership is ineligible to receive unemployment compensation benefits, will not be considered an employee for the purpose of calculating an employer's contribution to the Unemployment Compensation Trust Fund.

01/25/2007 H 218 Introduced and Read First Time (H)
01/29/2007 H 226 Read Second Time (H)
03/01/2007 H 520 Referred: Spec Com on Workforce Dev & Workplace Safety (H)
03/07/2007 Public Hearing Completed (H)

HB 601 – Public employee labor organizations. Requires the Commissioner of the Office of Administration to appoint a chief negotiator to represent the state in negotiations and administer all labor contracts entered into by the state. Allows public employees to refuse to join an employee organization and refuse to pay any fees, dues, assessments, or service fees except to the extent that agreements between the public body and the employee organization require, as a condition of employment, the payment of service fees in an amount not to exceed the dues payable by an organization member. Specifies requirements for the formation and the function of public employee bargaining units. Requires the state board to adopt rules and regulations for the certification and decertification of bargaining representatives, impasse procedures, grievance procedures, payment of fees, hearings, and enforcement of good faith negotiation rights. Makes it unlawful for public employees to strike or for the representative of any public body to authorize or participate in any strike. Establishes procedures for obtaining an injunction restraining a violation of the strike prohibition or imminently threatened violation of the strike prohibition. Persons in violation of the strike prohibition who are held to be in contempt of court for noncompliance with a court order may be immediately discharged from employment, forfeit all seniority rights, be barred from employment by the same employer for 12 months, or any combination of the sanctions. If an employee organization or any of its officers are held to be in contempt of court for failure to follow a court order, the employee organization will be decertified as the exclusive bargaining representative and will cease to receive financial support from its members. If requested negotiations reach an impasse, either participating party may request the state board to appoint a mutually agreed upon mediator. The bill specifies mediation procedures, time requirements, and factors to be considered by the mediator in negotiations between the parties. Any final agreement requiring appropriations by the employing public body is subject to all applicable laws and will be addressed in the budget submitted by the Governor and follow the required appropriations process. Any employee organization and public employer may sue or be sued as an entity under the provisions of the bill.

01/25/2007 H 218 Introduced and Read First Time (H)
01/29/2007 H 226 Read Second Time (H)

HB 649 – Credit information in employment decisions. Makes it an improper employment practice for an employer to discriminate based on an individual's credit score or credit history. Prohibits an employer from refusing to hire, discharging, reducing compensation, or modifying any condition of an individual's employment based on the individual's credit score or credit history, unless the credit information is

directly related to the duties and performance of the employee or the overall operation of the employer's business.

01/29/2007 H 228 Introduced and Read First Time (H)

01/30/2007 H 236 Read Second Time (H)

02/14/2007 H 379 Referred: Spec Com on Workforce Dev & Workplace Safety (H)

†- ~~02/14~~ **Health care coverage for small employers. (See Insurance Law)**

02/01/2007 H 265 Introduced and Read First Time (H)

02/05/2007 H 280 Read Second Time (H)

04/05/2007 H 1009 Referred: Special Committee on Health Insurance (H)