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SENATE BILL 92

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Sander Rue

AN ACT

RELATING TO EMPLOYMENT; ENACTING THE EMPLOYEE PREFERENCE ACT;  
EXCLUDING PUBLIC EMPLOYERS AND EMPLOYEES; PROHIBITING  
MEMBERSHIP IN A LABOR ORGANIZATION AS A CONDITION OF  
EMPLOYMENT; PROHIBITING THE DEDUCTION OF DUES OR FEES TO A  
LABOR ORGANIZATION FROM THE COMPENSATION OF EMPLOYEES WITHOUT  
WRITTEN AUTHORIZATION; PROVIDING FOR INVESTIGATION AND  
ENFORCEMENT; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Employee Preference Act".

SECTION 2. [NEW MATERIAL] PUBLIC POLICY.--It is the  
public policy of New Mexico that employees shall have, and  
shall be protected in the exercise of, the right to form, join  
or assist labor organizations or to refrain from any such

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1 activities, freely and without fear of penalty or reprisal.

2 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
3 Employee Preference Act:

4 A. "employee" means a person who performs a service  
5 for an employer;

6 B. "employer" means a person:

7 (1) for whom an employee performs a service;

8 (2) who has control over the payment of an  
9 employee's wages; and

10 (3) who is not the state, a political  
11 subdivision of the state, a municipality that has adopted a  
12 home rule charter or a state educational institution as  
13 provided in Article 12, Section 11 of the constitution of New  
14 Mexico; and

15 C. "labor organization" means a union,  
16 organization, agency or employee representation committee of  
17 any kind that exists for the purpose, in whole or in part, of  
18 dealing with employers concerning wages, rates of pay, hours of  
19 work or other conditions of employment.

20 SECTION 4. [NEW MATERIAL] MANDATORY MEMBERSHIP AND FEES  
21 PROHIBITED.--A person shall not be required, as a condition of  
22 hiring, promotion or continued employment with an employer, to  
23 become or remain a member of a labor organization or to pay any  
24 dues, fees, assessments or other charges of any kind to a labor  
25 organization.

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1           SECTION 5.   [NEW MATERIAL] ORGANIZATION APPROVAL  
2 PROHIBITED.--An employer shall not require a person to be  
3 recommended or approved by or to be cleared through a labor  
4 organization as a condition of hiring, promotion or continued  
5 employment.

6           SECTION 6.   [NEW MATERIAL] CERTAIN AGREEMENTS ILLEGAL.--An  
7 agreement, understanding or practice, written or oral, implied  
8 or expressed, between an employer and a labor organization that  
9 is in violation of the Employee Preference Act is unlawful.

10          SECTION 7.   [NEW MATERIAL] VOLUNTARY CHECKOFF.--An  
11 employer shall not deduct from the wages, earnings or  
12 compensation of an employee any dues, fees, assessments or  
13 other charges to be held for or paid to a labor organization  
14 unless the employer has first received a written authorization  
15 for the deduction signed by the employee, which authorization  
16 may be revoked by the employee at any time by giving written  
17 notice of the revocation to the employer.

18          SECTION 8.   [NEW MATERIAL] INVESTIGATION.--It is the duty  
19 of the attorney general and of every district attorney to  
20 investigate complaints of violations of the Employee Preference  
21 Act and to prosecute a person suspected of violating that act.

22          SECTION 9.   [NEW MATERIAL] ENFORCEMENT.--If, as a result  
23 of investigation, the attorney general or a district attorney  
24 has good cause to believe that a person is violating or will  
25 violate a provision of the Employee Preference Act, the

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1 attorney general or district attorney may bring an action for  
2 injunctive or other appropriate relief in the district court  
3 for the county in which the violation is occurring or will  
4 occur or in the district court for Santa Fe county.

5 SECTION 10. [NEW MATERIAL] PENALTY.--A person who  
6 violates any provision of the Employee Preference Act is guilty  
7 of a misdemeanor and upon conviction shall be punished by a  
8 fine of not more than one thousand dollars (\$1,000) or by  
9 imprisonment for a definite term not to exceed ninety days, or  
10 both.

11 SECTION 11. [NEW MATERIAL] APPLICATION OF ACT.--The  
12 provisions of the Employee Preference Act shall not apply to  
13 any contract or agreement between an employer and a labor  
14 organization in force on July 1, 2015 but shall apply to a  
15 renewal or extension of the contract or agreement or to a new  
16 contract or agreement entered into after July 1, 2015.

17 SECTION 12. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2015.