

SB2770



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2770

Introduced 1/17/2024, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

New Act

Creates the Construction Industry Employment Freedom Act. Provides that any employer not party to a bona fide collective bargaining agreement with a labor organization in the construction industry shall not enter into or enforce a non-compete agreement or non-solicitation agreement that restricts or prohibits a worker from accepting employment with an employer that is party to a bona fide collective bargaining agreement with a labor organization. Provides that any non-compete agreement or non-solicitation agreement that violates that provision shall be void and unenforceable. Provides that the Department of Labor shall be responsible for enforcing the provisions of the Act. Provides that any employer found to be in violation of the Act shall be subject to a fine as determined by the Department of Labor, not to exceed \$5,000 for each violation. Provides that any affected employee may bring a civil action against an employer for injunctive relief and damages for violations of the Act. Effective immediately.

LRB103 36528 SPS 66634 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Construction Industry Employment Freedom Act.

6 Section 5. Purpose and findings.

7 (a) The purpose of this Act is to ensure fair competition
8 and safeguard the right of individuals to pursue employment
9 opportunities without undue restrictions.

10 (b) The General Assembly finds that non-compete and
11 non-solicitation agreements forced upon unrepresented workers
12 are being used to infringe upon their constitutional right to
13 freedom of employment and right to be represented by a labor
14 organization.

15 Section 10. Definitions. As used in this Act:

16 "Construction industry" means any constructing, altering,
17 reconstructing, repairing, rehabilitating, refinishing,
18 refurbishing, remodeling, remediating, renovating, custom
19 fabricating, maintenance, landscaping, improving, wrecking,
20 painting, decorating, demolishing, and adding to or
21 subtracting from any building, structure, highway, roadway,
22 street, bridge, alley, sewer, ditch, sewage disposal plant,

1 water works, parking facility, railroad, excavation or other
2 structure, project, development, real property or improvement,
3 or to do any part thereof, whether or not the performance of
4 the work herein described involves the addition to, or
5 fabrication into, any structure, project, development, real
6 property or improvement herein described of any material or
7 article of merchandise. "Construction industry" also includes
8 moving construction-related materials on the job site to or
9 from the job site, snow plowing, snow removal, and refuse
10 collection.

11 "Labor organization" means an organization that is the
12 exclusive representative of an employer's employees recognized
13 or certified under the National Labor Relations Act.

14 "Non-compete agreement" means any contract or agreement,
15 written or oral, between an employer and an employee that
16 restricts the employee's ability to engage in the same or
17 similar occupation, profession, or trade after the termination
18 of employment.

19 "Non-solicitation agreement" means any contract or
20 agreement, written or oral, between an employer and an
21 employee that restricts the employee's ability to solicit or
22 accept business from the employer's clients or customers after
23 the termination of employment.

24 Section 15. Prohibition of non-compete and
25 non-solicitation agreements in the construction industry.

1 (a) Any employer not party to a bona fide collective
2 bargaining agreement with a labor organization in the
3 construction industry shall not enter into or enforce a
4 non-compete agreement or non-solicitation agreement that
5 restricts or prohibits a worker from accepting employment with
6 an employer that is party to a bona fide collective bargaining
7 agreement with a labor organization.

8 (b) Any non-compete agreement or non-solicitation
9 agreement that violates subsection (a) shall be void and
10 unenforceable.

11 Section 20. Enforcement and penalties.

12 (a) The Department of Labor shall be responsible for
13 enforcing the provisions of this Act.

14 (b) Any employer found to be in violation of this Act shall
15 be subject to a fine as determined by the Department of Labor,
16 not to exceed \$5,000 for each violation.

17 (c) Any affected employee may bring a civil action against
18 an employer for injunctive relief and damages for violations
19 of this Act.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.