

House Bill 361

By: Representatives Lindsey of the 54th, Hamilton of the 24th, and Fleming of the 121st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 34 of the Official Code of Georgia Annotated,
2 relating to membership in labor organizations, so as to provide for definitions; to provide for
3 statement of rights under federal law; to provide for certain contract and agreement
4 employment rights; to provide for policy concerning passage of laws, ordinances, or
5 contracts that waive or restrict federal labor laws; to provide for changes to agreements and
6 contracts permitting labor organizations to deduct fees from employees' earnings; to amend
7 Code Section 16-7-21 of the Official Code of Georgia Annotated, relating to criminal
8 trespass, so as to provide for both criminal trespass and criminal conspiracy; to provide for
9 punishment and fines; to provide for related matters; to provide for severability; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 2 of Chapter 6 of Title 34 of the Official Code of Georgia Annotated, relating to
14 membership in labor organizations, is amended in Code Section 34-6-20, relating to
15 definitions, as follows:

16 "34-6-20.

17 As used in this article, the term:

18 (1) 'Employee' includes any employee and shall not be limited to the employees of a
19 particular employer.

20 (2) 'Employer' includes any person acting in the interest of an employer, directly or
21 indirectly, but shall not include the United States, a state or any political subdivision
22 thereof, any person subject to the Railway Labor Act, as amended, any labor organization
23 (other than when acting as an employer), or anyone acting in the capacity of officer or
24 agent of such labor organization.

25 (3) 'Employment' means employment by an employer.

26 (4) 'Federal labor laws' means the National Labor Relations Act and the Labor
 27 Management Relations Act, as amended by federal administrative regulations relating to
 28 labor and management or employee and employer issues, and the United States
 29 Constitution as amended and as construed by the federal courts.

30 (5) 'Governmental body' means the State of Georgia or any local government or its
 31 subdivisions, including but not limited to cities, municipalities, counties and any public
 32 body, agency, board, commission or other governmental, quasi-governmental, or
 33 quasi-public body, or like capacity of local government or its subdivision.

34 ~~(4)~~(6) 'Labor organization' means any organization of any kind or any agency or
 35 employee representation committee or plan in which employees participate and which
 36 exists for the purpose, in whole or in part, of dealing with employers concerning
 37 grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of
 38 work."

39 SECTION 2.

40 Said article is further amended by adding a new Code section to read as follows:

41 "34-6-20.1.

42 The rights protected under federal labor laws include, but are not limited, to:

43 (1) An employer's or employee's right to express views in favor of or contrary to
 44 unionization and any other labor relations issues to the full extent allowed by the First
 45 Amendment of the United States Constitution and Section 8(c) of the National Labor
 46 Relations Act;

47 (2) An employee's right to participate in, and an employer's right to demand, a secret
 48 ballot election under federal law, including, without limitation, the full procedural
 49 protections afforded by such laws for defining the unit, conducting the election campaign
 50 and election, and making any challenges or objections thereto; and

51 (3) An employer's right to:

52 (A) Oppose the recognition of a labor organization based solely on reviewing
 53 authorization cards absent a secret ballot election conducted in accordance with federal
 54 labor laws;

55 (B) Refuse to release sensitive and private employee information beyond the
 56 requirements of federal labor laws;

57 (C) Maintain the confidentiality of employee information to the maximum extent
 58 allowed by federal labor laws; and

59 (D) Restrict access to its property or business to the maximum extent allowed by
 60 federal labor laws."

61 **SECTION 3.**

62 Said article is further amended by revising Code Section 34-6-21, relating to membership in
63 or resignation from a labor organization as a condition of employment, as follows:

64 "34-6-21.

65 (a) No individual shall be required as a condition of employment or continuance of
66 employment to be or remain a member or an affiliate of a labor organization or to resign
67 from or to refrain from membership in or affiliation with a labor organization.

68 (b) No governmental body may pass any law, ordinance, or regulation or impose any
69 contractual, zoning, permitting, licensing, or other condition that requires any employer or
70 employee to waive statutory rights under federal labor laws.

71 (c) No governmental body may pass any law, regulation, or ordinance that would require,
72 in whole or in part, an employer or multiple employer association to accept or otherwise
73 agree to any provisions that are mandatory or nonmandatory subjects of collective
74 bargaining under federal labor laws, including, but not limited to, any limitations on an
75 employer's or multiple employer association's right to engage in collective bargaining with
76 a labor organization, to lock out employees, or to operate during a work stoppage;
77 provided, however, that the foregoing shall not invalidate or otherwise restrict the
78 application of federal labor laws.

79 (d) No employer or labor organization shall be forced to enter into any agreement,
80 contract, understanding, or practice, written or oral, implied or expressed, that subverts the
81 established process by which employees may make informed and free decisions regarding
82 representation and collective bargaining rights provided for by federal labor laws."

83 **SECTION 4.**

84 Said article is further amended by revising Code Section 34-6-25, relating to deductions from
85 employees' earnings of fees of labor organizations, as follows:

86 "34-6-25.

87 (a) No employer shall deduct from the wages or other earnings of any employee any fee,
88 assessment, or other sum of money whatsoever to be held for or to be paid over to a labor
89 organization except on the ~~individual order or request of the employee, which shall not be~~
90 irrevocable for a period of more than one year annual written authorization from the
91 employee which shall not exceed a period greater than one year. Such authorization may
92 be revoked at any time at the request of the employee.

93 (b) Nothing in this Code section shall be construed to impair any contract, agreement, or
94 collective bargaining agreement in existence prior to the effective date of this Code
95 section."

96 **SECTION 5.**

97 Said article is further amended by revising Code Section 34-6-26, relating to contracts
 98 allowing deductions from employees' earnings of fees of labor organizations, as follows:

99 "34-6-26.

100 (a) It shall be unlawful for any employer to contract with any labor organization and for
 101 any labor organization to contract with any employer for the deduction of any fee,
 102 assessment, or other sum of money whatsoever from the wages or other earnings of an
 103 employee to be held for or to be paid over to a labor organization except upon the condition
 104 to be embodied in ~~said~~ such contract that such deduction will be made only on the
 105 individual order or request of the employee, which shall not be irrevocable for a period of
 106 more than one year annual written authorization of the employee. Such authorization may
 107 be revoked at any time at the request of the employee.

108 (b) Nothing in this Code section shall be construed to impair any contract, agreement, or
 109 collective bargaining agreement in existence prior to the effective date of this Code
 110 section."

111 **SECTION 6.**

112 Code Section 16-7-21 of the Official Code of Georgia Annotated, relating to criminal
 113 trespass, is amended by revising subsection (d) as follows:

114 "(d)(1) A person who commits the offense of criminal trespass shall be guilty of a
 115 misdemeanor.

116 (2) The provisions of Code Section 16-4-8.1 notwithstanding, a person may be convicted
 117 of both conspiracy to commit criminal trespass and the completed crime of criminal
 118 trespass, in which event such separate crime of conspiracy shall be a misdemeanor of a
 119 high and aggravated nature."

120 **SECTION 7.**

121 This Act shall be severable as provided by Code Section 1-1-3 of Official Code of Georgia
 122 Annotated.

123 **SECTION 8.**

124 All laws and parts of laws in conflict with this Act are repealed.