**South Carolina General Assembly**

119th Session, 2011-2012

**A197, R254, H4652**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer, Harrell, Lucas, Bingham, Hardwick, Harrison, Owens, White, Allison, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bikas, Bowen, Brady, Brannon, Chumley, Clemmons, Cole, Corbin, Crawford, Crosby, Daning, Delleney, Edge, Erickson, Forrester, Frye, Gambrell, Hamilton, Hearn, Henderson, Herbkersman, Hiott, Hixon, Horne, Huggins, Limehouse, Loftis, Long, Lowe, McCoy, Merrill, D.C. Moss, V.S. Moss, Murphy, Nanney, Norman, Parker, Patrick, Pinson, Pitts, Pope, Putnam, Quinn, Ryan, Simrill, Skelton, G.M. Smith, G.R. Smith, J.R. Smith, Sottile, Southard, Spires, Stringer, Tallon, Taylor, Thayer, Tribble, Viers, Whitmire, Willis, Young, Battle, Hayes and Anthony

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Introduced in the House on January 24, 2012

Introduced in the Senate on February 9, 2012

Last Amended on May 29, 2012

Passed by the General Assembly on June 5, 2012

Governor's Action: June 7, 2012, Signed

Summary: Labor organization to file certain information with LLR

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2012 House Introduced and read first time ([House Journal‑page 16](file:///h:\hj%20archive\2012\01-24-12.docx))

1/24/2012 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 16](file:///h:\hj%20archive\2012\01-24-12.docx))

2/1/2012 House Member(s) request name added as sponsor: Battle

2/2/2012 House Member(s) request name added as sponsor: Hayes, Anthony

2/2/2012 House Committee report: Majority favorable, minority unfavorable **Labor, Commerce and Industry** ([House Journal‑page 3](file:///h:\hj%20archive\2012\02-02-12.docx))

2/3/2012 Scrivener's error corrected

2/8/2012 House Amended ([House Journal‑page 32](file:///h:\hj%20archive\2012\02-08-12.docx))

2/8/2012 House Read second time ([House Journal‑page 32](file:///h:\hj%20archive\2012\02-08-12.docx))

2/8/2012 House Roll call Yeas‑86 Nays‑25 ([House Journal‑page 32](file:///h:\hj%20archive\2012\02-08-12.docx))

2/9/2012 House Read third time and sent to Senate ([House Journal‑page 27](file:///h:\hj%20archive\2012\02-09-12.docx))

2/9/2012 House Roll call Yeas‑70 Nays‑19 ([House Journal‑page 28](file:///h:\hj%20archive\2012\02-09-12.docx))

2/9/2012 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h:\sj%20archive\2012\02-09-12.docx))

2/9/2012 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 6](file:///h:\sj%20archive\2012\02-09-12.docx))

2/9/2012 Scrivener's error corrected

5/24/2012 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-24-12.docx))

5/25/2012 Scrivener's error corrected

5/29/2012 Senate Committee Amendment Adopted ([Senate Journal‑page 32](file:///h:\sj%20archive\2012\05-29-12.docx))

5/29/2012 Senate Read second time ([Senate Journal‑page 32](file:///h:\sj%20archive\2012\05-29-12.docx))

5/29/2012 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 32](file:///h:\sj%20archive\2012\05-29-12.docx))

5/30/2012 Scrivener's error corrected

5/30/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 24](file:///h:\sj%20archive\2012\05-30-12.docx))

6/5/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 104](file:///h:\hj%20archive\2012\06-05-12.docx))

6/5/2012 House Roll call Yeas‑83 Nays‑26 ([House Journal‑page 105](file:///h:\hj%20archive\2012\06-05-12.docx))

6/6/2012 Ratified R 254

6/7/2012 Signed By Governor

6/18/2012 Effective date See Act for Effective Date

6/18/2012 Act No. 197

**VERSIONS OF THIS BILL**

[1/24/2012](file:///p:\pprever\2011-12\4652_20120124.docx)

[2/2/2012](file:///p:\pprever\2011-12\4652_20120202.docx)

[2/3/2012](file:///p:\pprever\2011-12\4652_20120203.docx)

[2/8/2012](file:///p:\pprever\2011-12\4652_20120208.docx)

[2/9/2012](file:///p:\pprever\2011-12\4652_20120209.docx)

[5/24/2012](file:///p:\pprever\2011-12\4652_20120524.docx)

[5/25/2012](file:///p:\pprever\2011-12\4652_20120525.docx)

[5/29/2012](file:///p:\pprever\2011-12\4652_20120529.docx)

[5/30/2012](file:///p:\pprever\2011-12\4652_20120530.docx)

(A197, R254, H4652)

**AN ACT TO AMEND SECTION 41‑7‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUBLIC POLICY CONCERNING THE RIGHT TO WORK, SO AS TO CLARIFY ARCHAIC LANGUAGE IN THE POLICY; TO AMEND SECTION 41‑7‑80, RELATING TO PENALTIES FOR A VIOLATION OF RIGHT‑TO‑WORK LAWS, SO AS TO PROVIDE A RANGE FOR AN APPLICABLE FINE FROM ONE THOUSAND DOLLARS TO A MAXIMUM OF TEN THOUSAND DOLLARS; TO AMEND SECTION 41‑7‑90, RELATING TO COURT REMEDIES AVAILABLE TO A PERSON FOR A VIOLATION OF HIS RIGHT TO WORK, SO AS TO PERMIT TREBLE DAMAGES, REQUIRE A PERSON SEEKING THIS RELIEF TO CONTEMPORANEOUSLY PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION WITH THE BASIS FOR THE LAWSUIT, AND TO PROVIDE AN EXCEPTION; TO AMEND SECTION 41‑7‑100, RELATING TO CIVIL PENALTIES THE DEPARTMENT MAY ASSESS FOR A VIOLATION AND RELATED APPEALS, SO AS TO PROVIDE A CIVIL PENALTY MAY NOT EXCEED TEN THOUSAND DOLLARS; BY ADDING SECTION 41‑7‑110 SO AS TO PROVIDE AN EMPLOYER OR AN EMPLOYEE WITH PERMISSION MAY CONSPICUOUSLY POST CERTAIN NOTICE CONCERNING THE RIGHTS OF AN EMPLOYEE; AND BY ADDING SECTION 41‑7‑130 SO AS TO REQUIRE CERTAIN REPORTS TO BE FILED WITH THE DEPARTMENT OF LABOR, LICENSING AND REGULATION.**

Be it enacted by the General Assembly of the State of South Carolina:

**Denial of right to work for labor organization membership against public policy**

SECTION 1. Section 41‑7‑10 of the 1976 Code is amended to read:

“Section 41‑7‑10.It is hereby declared to be the public policy of this State that the right of persons to work must not be denied or abridged because of membership or nonmembership in a labor union or labor organization.”

**Penalties for violating right‑to‑work laws**

SECTION 2. Section 41‑7‑80 of the 1976 Code is amended to read:

“Section 41‑7‑80.An employer, labor organization, or other person who violates a provision of this chapter is guilty of a misdemeanor, and, upon conviction, must be punished by imprisonment for not less than ten days nor more than thirty days, a fine of not less than one thousand dollars but not more than ten thousand dollars, or both.”

**Remedy and relief available for violation of right‑to‑work laws, treble damages permitted, affidavit stating factual basis of claim required, exception**

SECTION 3. Section 41‑7‑90 of the 1976 Code is amended to read:

“Section 41‑7‑90.(A) A person whose rights are adversely affected by contract, agreement, assemblage, or other act or thing done or threatened to be done and declared to be unlawful or prohibited by this chapter may apply to a court having general equity jurisdiction for appropriate relief. The court may grant and issue a restraining and other appropriate orders including an injunction restraining and enjoining the performance, continuance, maintenance, or commission of any such contract, agreement, assemblage, act or thing, and may determine and award, as justice may require, actual damages, costs, and attorneys’ fees sustained or incurred by a party to the action, and, in the discretion of the court or jury, treble damages and punitive damages in addition to the actual damages. The provisions of this section are cumulative and are in addition to all other remedies provided by law.

(B) Contemporaneously with the filing of an action in court, a person applying for relief pursuant to this section must file, with the director or his designee, a copy of the court pleadings, or an affidavit with the director stating the legal and factual basis for each claim and application for relief based on the available evidence at the time of the filing of the affidavit.

(C) The contemporaneous filing requirement of subsection (B) does not apply to a case in which the period of limitation may expire, or there is a good faith basis to believe it may expire on a claim stated in the complaint within ten days of the date of filing and, because of the time constraints, the plaintiff asserts that an affidavit could not be prepared, or a copy of the pleadings could not be provided. In such a case, the plaintiff has forty‑five days after the filing of the court action to file a copy of the pleadings or an affidavit with the director.”

**Civil penalties for violation of right‑to‑work laws, employers and labor organizations specifically included as potential assessees**

SECTION 4. Section 41‑7‑100 of the 1976 Code, as added by Act 357 of 2002, is amended to read:

“Section 41‑7‑100. (A) An employer, labor organization, or other person who violates the provisions of this chapter may be assessed by the Director of the Department of Labor, Licensing and Regulation a civil penalty of not more than ten thousand dollars for each offense.

(B) The director shall promulgate regulations establishing procedures for administrative review of civil penalties assessed under this chapter.

(C) An employer, labor organization, or other person aggrieved by a final action of the department may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the department’s decision pending completion of the appellate process.”

**Right‑to‑work notice posting by employer of employee permitted, requirements of posting**

SECTION 5. Chapter 7, Title 41 of the 1976 Code is amended by adding:

“Section 41‑7‑110. An employer, or a single employee of that employer with the permission of the employer, may post in a conspicuous place a notice containing the provisions of Sections 41‑7‑10, 41‑7‑20, 41‑7‑30, 41‑7‑40, 41‑7‑70, and 41‑7‑90 printed in at least fourteen point font. This notice must bear a title reading ‘Your Rights as a Worker in South Carolina’ in at least forty‑eight point font. The director or his designee shall furnish the printed form of this notice upon request or make it available electronically on the department’s website.”

**Labor organization with members working in South Carolina shall contemporaneously file with the Department of Labor, Licensing and Regulation documents required by United States Labor‑Management Reporting and Disclosure Procedure**

SECTION 6. Chapter 7, Title 41 of the 1976 Code is amended by adding:

“Section 41‑7‑130. A labor organization with members that work in South Carolina shall file with the department contemporaneously copies of the documents required to be filed with the Secretary of Labor, pursuant to 29 U.S.C. Sections 401, et seq. as amended.”

**Severability**

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 8. This act takes effect upon approval by the Governor, and the provisions of Section 41‑7‑90, as amended, shall apply to any actions filed with a court after the effective date.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

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