

TITLE 44
LABOR

CHAPTER 20
RIGHT TO WORK

44-2001. DECLARATION OF PUBLIC POLICY. It is hereby declared to be the public policy of the state of Idaho, in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization or on refusal to join, affiliate with, or financially or otherwise support a labor organization.

[44-2001, added 1985, ch. 2, sec. 1, p. 5.]

44-2002. LABOR ORGANIZATION. The term "labor organization" means any organization of any kind, or agency or employee representation committee or union, which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

[44-2002, added 1985, ch. 2, sec. 1, p. 5.]

44-2003. FREEDOM OF CHOICE GUARANTEED, DISCRIMINATION PROHIBITED. No person shall be required, as a condition of employment or continuation of employment, (1) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization, or, (2) to become or remain a member of a labor organization, or, (3) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization, or, (4) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization, or, (5) to be recommended, approved, referred, or cleared by or through a labor organization.

[44-2003, added 1985, ch. 2, sec. 1, p. 5.]

44-2004. VOLUNTARY PAYMENTS PROTECTED. (1) It shall be unlawful to deduct from the wages, earnings or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer.

(2) Deductions for political activities as defined in [chapter 26, title 44](#), Idaho Code, shall not be deducted from the wages, earnings or compensation of an employee.

(3) Nothing in this chapter shall prohibit an employee from personally paying contributions for political activities as defined in [chapter 26, title 44](#), Idaho Code, to a labor organization unless such payment is prohibited by law.

[44-2004, added 1985, ch. 2, sec. 1, p. 5; am. 2003, ch. 97, sec. 2, p. 314.]

44-2005. AGREEMENTS IN VIOLATION, AND ACTIONS TO INDUCE SUCH AGREEMENTS, DECLARED ILLEGAL. Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and employer which violates the rights of employees as guaranteed by provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into any agreement prohibited under this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.

[44-2005, added 1985, ch. 2, sec. 1, p. 5.]

44-2006. COERCION AND INTIMIDATION PROHIBITED. It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer or agent thereof, by any threatened or actual intimidation of an employee or prospective employee or his parents, spouse, children, grandchildren, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to his property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or to otherwise forfeit his rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause such employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employee.

[44-2006, added 1985, ch. 2, sec. 1, p. 6.]

44-2007. PENALTIES. Any person who directly or indirectly violates any provision of this chapter, excluding the provisions of sections [44-2012](#) and [44-2013](#), Idaho Code, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a period of not more than ninety (90) days, or both such fine and imprisonment.

[44-2007, added 1985, ch. 2, sec. 1, p. 6; am. 2012, ch. 312, sec. 1, p. 860.]

44-2008. CIVIL REMEDIES. Any employee injured as a result of any violation or threatened violation of the provisions of this chapter, excluding the provisions of sections [44-2012](#) and [44-2013](#), Idaho Code, shall be entitled to injunctive relief against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney's fees, of any character resulting from such violation or threatened violation. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.

[44-2008, added 1985, ch. 2, sec. 1, p. 6; am. 2012, ch. 312, sec. 2, p. 860.]

44-2009. DUTY TO INVESTIGATE. It shall be the duty of the prosecuting attorneys of each county and of the attorney general of this state, to investigate complaints of violation or threatened violations of this chapter and to prosecute all persons violating any of its provisions, and to take all means at their command to ensure its effective enforcement.

[44-2009, added 1985, ch. 2, sec. 1, p. 6.]

44-2010. PROSPECTIVE APPLICATION. The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter and shall apply to any renewal or extension of any existing contract.

[44-2010, added 1985, ch. 2, sec. 1, p. 6.]

44-2011. APPLICABILITY. The provisions of this chapter are applicable to all employment, private and public, including all employees of the state and its political subdivisions.

[44-2011, added 1995, ch. 178, sec. 2, p. 662.]

44-2012. PROHIBITED ACTIVITY. (1) The provisions of this act shall be known as the "Fairness in Contracting Act." The intent of this act is to promote fairness in bidding and contracting.

(2) No contractor or subcontractor may directly or indirectly receive a wage subsidy, bid supplement or rebate on behalf of its employees, or provide the same to its employees, the source of which is wages, dues or assessments collected by or on behalf of any labor organization(s), whether or not labeled as dues or assessments.

(3) No labor organization may directly or indirectly pay a wage subsidy or wage rebate to its members in order to directly or indirectly subsidize a contractor or subcontractor, the source of which is wages, dues or assessments collected by or on behalf of its members, whether or not labeled as dues or assessments.

(4) It is illegal to use any fund financed by wages collected by or on behalf of any labor organization(s), whether or not labeled as dues or assessments, to subsidize a contractor or subcontractor doing business in the state of Idaho.

(5) Any contractor, subcontractor or labor organization that violates the provisions of this section shall be guilty of a misdemeanor and fined an amount not to exceed ten thousand dollars (\$10,000) for a first offense, twenty-five thousand dollars (\$25,000) for a second offense, and one hundred thousand dollars (\$100,000) for each and every additional offense.

(6) Any interested party, which shall include a bidder, offeror, contractor, subcontractor or taxpayer, shall have standing to challenge any bid award, specification, project agreement, controlling document, grant or cooperative agreement in violation of the provisions of this section, and such interested party shall be awarded costs and attorney's fees in the event that such challenge prevails.

[44-2012, added 2011, ch. 32, sec. 1, p. 75.]

44-2013. PUBLIC WORKS -- WAGES. Notwithstanding any other provision found in [chapter 10, title 44](#), Idaho Code, and [chapter 57, title 67](#), Idaho Code, the following shall apply:

(1) This act shall be known as the "Open Access to Work Act."

(2) For purposes of this section, the following terms have the following meanings:

(a) "Political subdivision" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(b) "Public works" shall have the same meaning as that provided for "public works construction" in section [54-1901](#), Idaho Code.

(3) (a) Except as provided in subsection (3) (b) of this section or as required by federal or state law, the state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works pay its employees:

(i) A predetermined amount of wages or wage rate; or

(ii) A type, amount or rate of employee benefits.

(b) Subsection (3) (a) of this section shall not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(4) The state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works executes or otherwise becomes a party to any project labor agreement, collective bargaining agreement, prehire agreement or any other agreement with employees, their representatives or any labor organization as a condition of bidding, negotiating, being awarded or performing work on a public works project.

(5) Any interested party, which shall include a bidder, offeror, contractor, subcontractor or taxpayer, shall have standing to challenge any bid award, specification, project agreement, controlling document, grant or cooperative agreement that violated the provisions of this section, and such interested party shall be awarded costs and attorney's fees in the event that such challenge prevails.

(6) The provisions of this section apply to any contract executed after July 1, 2011.

[44-2013, added 2011, ch. 31, sec. 2, p. 74.]

44-2014. SEVERABILITY. The provisions of this chapter are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, such declaration shall not affect the remaining provisions of this chapter.

[(44-2014) 44-2013, added 2011, ch. 31, sec. 2, p. 74; am. and re-desig. 2015, ch. 244, sec. 25, p. 1022.]