



# House of Representatives

General Assembly

**File No. 328**

February Session, 2004

Substitute House Bill No. 5490

*House of Representatives, March 30, 2004*

The Committee on Labor and Public Employees reported through REP. RYAN, K. of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT PROHIBITING CAPTIVE AUDIENCE MEETINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this  
2 section:

3 (1) "Employer" means a person engaged in business who has  
4 employees, including the state and any political subdivision of the  
5 state;

6 (2) "Employee" means any person engaged in service to an employer  
7 in a business of the employer, and includes research assistants,  
8 research fellows, teaching assistants, teaching fellows, post-doctoral  
9 associates, post-doctoral fellows, interns and residents at independent  
10 nonprofit institutions of higher education or nonprofit general hospital  
11 facilities, the real property of which is the basis of a state grant in lieu  
12 of taxes pursuant to section 12-20a of the general statutes;

13 (3) "Labor organization" means any organization that exists for the  
14 purpose, in whole or in part, of collective bargaining or of dealing with  
15 employers concerning grievances, terms or conditions of employment,  
16 or of other mutual aid or protection in connection with employment;  
17 and

18 (4) "Political matters" includes, but is not limited to, political party  
19 affiliation or the decision to join or not join any lawful, political, social  
20 or community group or activity, or any labor organization.

21 (b) No employer or an employer's agent, representative or designee  
22 may require its employees to attend an employer-sponsored meeting  
23 or participate in any communications with the employer or its agents  
24 or representatives, the primary purpose of which is to communicate  
25 the employer's opinion about religious or political matters, except that  
26 an employer or its agent, representative or designee may communicate  
27 to employees information about religious or political matters that the  
28 employer is required by law to communicate, but only to the extent of  
29 such legal requirement.

30 (c) No employer or an employer's agent, representative or designee  
31 shall discharge, discipline or otherwise penalize or threaten to  
32 discharge, discipline or otherwise penalize any employee because the  
33 employee, or a person acting on behalf of the employee, makes a good  
34 faith report, verbally or in writing, of a violation or a suspected  
35 violation of this section. The provisions of this subsection shall not be  
36 applicable when the employee knows that such report is false.

37 (d) Any aggrieved employee may enforce the provisions of this  
38 section by means of a civil action brought no later than ninety days  
39 after the date of the alleged violation in the superior court for the  
40 judicial district where the violation is alleged to have occurred or  
41 where the employer has its principal office. The court may award a  
42 prevailing employee all appropriate relief, including rehiring or  
43 reinstatement of the employee to the employee's former position, back  
44 pay and reestablishment of any employee benefits to which the  
45 employee would otherwise have been eligible if such violation had not

46 occurred. The court shall award a prevailing employee treble damages,  
47 together with reasonable attorneys' fees and costs.

48 (e) Nothing in this section shall be construed to limit an employee's  
49 right to bring a common law cause of action against an employer for  
50 wrongful termination or to diminish or impair the rights of a person  
51 under any collective bargaining agreement.

This act shall take effect as follows:	
Section 1	October 1, 2004

**Statement of Legislative Commissioners:**

In subsection (d) , "within ninety days of " was changed to "no later than ninety days after" for clarity.

**LAB**      *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

This bill prohibits employers from requiring employees to attend meetings or participate in communications primarily about the employer's position on religious, political, or union organizing matters. The bill provides an exception that the employer may communicate legally required information about religious, political, or collective bargaining matters. It allows any aggrieved employee to enforce these provisions through a superior court civil action brought within 90 days of the alleged violation. This bill will have no fiscal impact to the state.

**OLR Bill Analysis**

sHB 5490

**AN ACT PROHIBITING CAPTIVE AUDIENCE MEETINGS****SUMMARY:**

This bill prohibits employers from requiring employees to attend meetings or participate in communications primarily about the employer's position on religious, political, or union organizing matters (see BACKGROUND). It also provides whistleblower protection for employees who make a good-faith report of a violation of the bill.

Any aggrieved employee may enforce these provisions through a Superior Court civil action brought within 90 days of the alleged violation. The court may award a prevailing employee all appropriate relief, including rehiring or reinstatement, and it must award a prevailing employee treble damages and reasonable attorneys' fees and costs.

The bill covers all private sector employers and the state and its political subdivisions.

EFFECTIVE DATE: October 1, 2004

**BANNED MEETINGS AND COMMUNICATIONS**

The bill bans an employer, or his agent, representative, or designee from requiring that employees participate in communications or attend employer-sponsored meetings with the employer or his agent or representative for the primary purpose of communicating the employer's position on religious, or political matters or the decision to join any political, social, or community group or labor union (a captive audience meeting). The bill provides an exception that the employer or his agent or representative may communicate to employees legally required information about religious, political, or collective bargaining matters, but only to the extent of the legal requirement.

**WHISTLEBLOWER PROTECTIONS**

The bill bans employers or their agents, representatives, or designees

from discharging, disciplining, or otherwise penalizing an employee or threatening to do so because he, or a person acting on his behalf, makes a good faith report, verbally or in writing, of a suspected violation of the bill. This protection does not apply if the employee knows the report is false.

## **ENFORCEMENT**

The bill allows any aggrieved employee to seek enforcement of the bill through a Superior Court civil action brought within 90 days of the alleged violation, provided the action is brought in the judicial district where the violation is alleged to take place or where the employer has his principal office.

The court may award a prevailing employee all appropriate relief, including rehiring or reinstatement to his former position, back pay, and reestablishment of any employee benefits to which he would otherwise have been eligible but for the violation. The court must award a prevailing employee treble monetary damage, and reasonable attorney's fees and costs.

## **DEFINITIONS**

### ***Employees***

The bill defines an employee as anyone working for an employer and specifically includes research assistants, research fellows, teaching assistants, teaching fellows, post-doctoral associates and fellows, interns and residents at independent nonprofit higher-education institutions or nonprofit general hospital facilities.

### ***Labor Organizations***

The bill defines labor organizations as any organization existing for the purpose of (1) collective bargaining; (2) dealing with employers concerning grievances, terms or conditions of employment; or (3) other mutual aid or protection in connection with employment.

### ***Political Matters***

Under the bill, political matters include among other things, political party affiliation or the decision to join or not join any lawful, political, social or community group or activity, or any labor organization.

## **BACKGROUND**

### **NLRA**

The National Labor Relations Act (NLRA) may preempt the bill insofar as the bill bans a form of employer communication to employees regarding union organizing. The NLRA guarantees the employer's right to express an opinion about unionization as long as the employer does not also threaten reprisal or promise a benefit.

The NLRA governs private sector union organizing, collective bargaining rights, and delineates what is an unfair labor practice. The NLRA created the National Labor Relations Board (NLRB) to administer the law and rule on specific cases alleging unfair labor practices.

### ***Captive Audience Meetings***

The NLRB has long ruled that an employer (or a union) holding a captive audience meeting of employees within 24 hours of a union election is not an unfair labor practice, but it is grounds for the NLRB to void the election results and order a new vote. The act and the NLRB allow captive audience meetings more than 24 hours before a union election.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Report

Yea 8      Nay 4