



Connecticut **Business & Industry** Association

**Testimony of Kia D. Floyd  
Assistant Counsel, Labor & Employment  
Before the Judiciary Committee  
March 14, 2007**

**H.B. 7326 AAC Captive Audience Meetings (Opposed)**

Good Afternoon Senator McDonald, Representative Lawlor and other members of the Committee. My name is Kia Floyd and I am the Assistant Counsel for Labor and Employment matters at the Connecticut Business and Industry Association (CBIA). CBIA represents the interests of more than 10,000 companies throughout the state of Connecticut, ranging from large corporations to small businesses. The vast majority of our companies employ fifty (50) or fewer employees, many of whom make up Connecticut's workforce. I am here today to speak on behalf of all of our member companies. CBIA generally supports any labor and employment related legislation that does not increase the costs of doing business in the state or unreasonably increase administrative burdens on employers in dealing with employment and workplace issues. Unfortunately, H.B. 7326 is a measure that would be very problematic for employers because it would present a tremendous burden on their ability to effectively manage employees; therefore we must oppose this legislation.

H.B. 7326 would restrict employers from requiring employees to attend meetings for the purpose of communicating about religious or political matters. In essence, this measure would ban employers from talking to their employees at mandatory staff meetings or "captive audience" meetings about many issues which are crucial to the effective management and operation of a business. This legislation would prohibit discussions about political developments at the State Capitol and elsewhere that affect jobs and the workplace, employee health and safety, government contracts, employee health benefit plans, and a vast array of other subjects. *If term "political" as used in this legislation is broadly construed, then almost any and every topic could fall within its purview and therefore be off limits in the workplace.* This in turn would have a negative impact on employers' ability to fully manage their staff and employees would be forced to glean information that could be vital to their interests outside of the workplace- a place where most employees spend the majority of their time.

*In addition to the practical burdens that H.B. 7326 places on employers and employees alike, there are also serious legal problems with this legislation in that it is pre-empted by federal law.* In 1935 Congress enacted the National Labor Relations Act (NLRA) to encourage a healthy relationship between private-sector workers and their employers. The NLRA was enacted to "insure both the employers and labor organization

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full freedom to express their views to employees on labor matters.” National Labor Relations Act, Section 8(c). The NLRA is administered by the National Labor Relations Board (NLRB) a federal agency which exercises *exclusive* authority over the law governing relations between unions and private sector employers. Accordingly, states are precluded from governing any area of law covered by the NLRA. Inasmuch as **H.B. 7326** would restrict employers from communicating freely with their employees in mandatory staff meetings, it is pre-empted by the NLRA.

The U.S. Supreme Court has repeatedly held that the NLRB has primary jurisdiction of all claims involving conduct that is arguably protected or prohibited by the NLRA. Clearly, the “captive audience” measure proposed under **H.B. 7326** is covered by the NLRA because it would prevent employers from speaking freely with their employees about a myriad of issues which may impact upon the workplace.

Furthermore, in 2004 the Office of Legislative Research (OLR) analyzed a similar bill (H.B. 5490) and found that:

- 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; and
- 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.

Many employers speak frequently to their employees at mandatory staff meetings to keep them abreast of key workplace and industry issues. Legislation which prohibits employers from holding such meetings denies workers their right to information, a right which is protected by the NLRA. Such legislation also tramples on the right of employers to convey needed information to their employees. If legislation of this type were enacted, then one of the largest and most successful grassroots campaigns in Connecticut history would not have occurred- the effort to save the U.S. Navy submarine base in Groton, Connecticut. The “Save Our Sub Base” campaign was undertaken by businesses and citizens throughout the state in an effort to prevent the closure of the submarine base in Southeastern Connecticut. The campaign was lodged by businesses and furthered by citizens due in large part to employers efforts in encouraging their employees to contact federal legislators and others to stress the importance of the sub

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base to the local and statewide economies. *If legislation such as H.B. 7326 were in place at that time, then the "Save our Sub Base" campaign certainly would have fallen under the broad definition of "political activity" prohibited by this measure and Connecticut's economy would have lost much needed jobs and federal funding.*

In today's global economy, businesses are under great pressure to adapt quickly to changing economic situations and competition. The ability to openly communicate with employees is crucial to a business' competitiveness. The NLRA grants employees abundant rights and employers clear guidelines on how they may communicate with their employees. The NLRA is designed to ensure balance in the workplace between an employer's right to effectively manage its employees through free speech and an employee's right to unionize. Any state legislation that seeks to alter this balance of power is pre-empted by the NLRA, therefore we strongly urge you to reject this legislation.

Thank you for the opportunity to testify.