



Senate

General Assembly

File No. 79

January Session, 2009

Senate Bill No. 365

Senate, March 16, 2009

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS.

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

1 Section 1. (NEW) (*Effective October 1, 2009*) (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 such employer;

8 (3) "Labor organization" means any organization that exists for the
9 purpose, in whole or in part, of collective bargaining or of dealing with
10 employers concerning grievances, terms or conditions of employment,
11 or of other mutual aid or protection in connection with employment;

12 (4) "Politics" means the activities or affairs engaged in by

13 government or a political party;

14 (5) "Political" means relative to, involving or characteristic of politics
15 or politicians; and

16 (6) "Political matters" includes political party affiliation or the
17 decision to join or not join any lawful political, social or community
18 group or activity or any labor organization.

19 (b) Except as provided in subsection (f) of this section, no employer,
20 and no agent, representative or designee of such employer, shall
21 require its employees to attend an employer-sponsored meeting with
22 the employer or its agent, representative or designee, the primary
23 purpose of which is to communicate the employer's opinion
24 concerning religious or political matters, except that an employer or its
25 agent, representative or designee may communicate to its employees
26 any information concerning religious or political matters that the
27 employer is required by law to communicate, but only to the extent of
28 such legal requirement.

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

36 (d) Any employee who is discharged, disciplined or otherwise
37 penalized in violation of the provisions of this section may bring a civil
38 action, not later than ninety days after the date of the alleged violation,
39 in the superior court for the judicial district where the violation is
40 alleged to have occurred or where the employer has its principal office.
41 The court may award a prevailing employee all appropriate relief,
42 including rehiring or reinstatement of the employee to the employee's
43 former position, back pay and reestablishment of any employee
44 benefits to which the employee would otherwise have been eligible if

45 such violation had not occurred. The court shall award a prevailing
46 employee treble damages, together with reasonable attorney's fees and
47 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.

52 (f) Nothing in this section shall prohibit: (1) A religious organization
53 from requiring its employees to attend a meeting sponsored by such
54 religious organization or to participate in any communications with
55 such religious organization or its agent, representative or designee, the
56 primary purpose of which is to communicate such religious
57 organization's religious beliefs, practices or tenets; (2) a political
58 organization from requiring its employees to attend a meeting
59 sponsored by such political organization or to participate in any
60 communications with such political organization or its agent,
61 representative or designee, the primary purpose of which is to
62 communicate such political organization's political tenets or purposes;
63 (3) an institution of higher education, or any agent, representative or
64 designee of such institution, from meeting with or participating in any
65 communications with its employees concerning political or religious
66 matters that are part of the regular coursework or any symposia or
67 academic program at such institution; or (4) casual conversations
68 between employees or between an employee and an agent,
69 representative or designee of an employer, provided participation in
70 such conversations is not required and such conversations occur in the
71 normal course of the employee's duties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Various State Agencies	Various - Potential Cost	Minimal	Minimal

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
All Municipalities	STATE MANDATE - Potential Cost	Minimal	Minimal

Explanation

The Office of the Attorney General can handle any actions required of it within existing resources. Any litigation expenses incurred for expert witnesses, contracted legal counsel, court fees, etc., would be passed on to the state agencies involved or statewide accounts that might be used to pay settlements. Municipalities might incur litigation costs under the bill.

The Judicial Department would not need to hire additional staff or spend more to process potential civil suits brought under the bill; therefore, there is no fiscal impact to that agency.

The Department of Labor may be required to investigate or hear prohibited practice claims in front of the Labor Relations Board as a result of the bill, which is not anticipated to result in a cost as few investigations or hearings are anticipated.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 365*****AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS.*****SUMMARY:**

This bill prohibits employers from requiring employees to attend meetings primarily about the employer's position on religious or political matters. The bill defines political matters as including political party affiliation or the decision to join or not join any lawful political, social, or community group or activity or a labor organization. A labor organization is any organization that exists for the purpose, in whole or part, of collective bargaining or dealing with employers about grievances, employment terms or conditions, or mutual aid or protection connected with employment.

The bill covers all private-sector employers and the state and its political subdivisions. It defines an employee as anyone working for an employer.

It also provides protection for employees who make a good-faith report of a violation of the bill.

An aggrieved employee may enforce the bill's 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 triple damages and reasonable attorneys' fees and costs.

EFFECTIVE DATE: October 1, 2009

BAN ON FORCED MEETINGS

The bill bans an employer, or his agent, representative, or designee,

from requiring that employees attend employer-sponsored meetings with the employer or his or her agent, representative, or designee for the primary purpose of communicating the employer's opinion on religious or political matters. (Generally, such forced meetings are referred to as "captive audience" meetings.)

EXCEPTIONS

The bill provides exceptions when the employer or its agent is communicating about religious or political matters that it is required to by law, but only to the extent of the legal requirement. It also exempts casual conversation between employees, and between employees and agents of employers, provided participation in the conversations is not required and they occur in the normal course of the employee's duties.

It also provides exceptions for three types of employers:

1. a religious organization may require its employees to attend a meeting or participate in communications with the employer or its agents to communicate the employer's religious beliefs, practices, or tenets;
2. a political organization may require its employees to attend a meeting or participate in communications with the employer or its agents to communicate the employer's political tenets or purposes; and
3. a higher education institution or its agent may meet with or participate in communications with its employees about political or religious matters that are part of the institution's regular coursework, symposia, or academic programs.

EMPLOYEE PROTECTION

The bill bans employers or their agents, representatives, or designees from discharging, disciplining, or otherwise penalizing an employee or threatening to do so because the employee, or a person acting on the employee's behalf, makes a good faith report, verbally or in writing, of a violation or suspected violation of the bill. This

protection does not apply if the employee knows the report is false.

ENFORCEMENT

The bill allows any employee who has been discharged, disciplined, or otherwise penalized to seek enforcement of the bill through a Superior Court civil action brought within 90 days of the alleged violation. The action must be brought in the judicial district where the violation is alleged to have taken place or where the employer has its principal office.

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

The bill does not (1) limit an employee's right to a common law cause of action for wrongful termination or (2) impair rights under a collective bargaining agreement.

BACKGROUND

NLRA

The National Labor Relations Act (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 to coerce employees.

The NLRA governs private-sector union organizing and 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 allows captive audience meetings more than 24 hours before a union election as long as the employer does not commit an

unfair labor practice (such as threatening reprisal for supporting a union). The NLRB has ruled that an employer (or a union) holding a captive audience meeting of employees within 24 hours of a union election is not committing an unfair labor practice, but it is grounds for the NLRB to void the election results and order a new vote.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 2 (03/03/2009)