



House of Representatives

General Assembly

File No. 566

February Session, 2018

Substitute House Bill No. 5473

House of Representatives, April 18, 2018

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute 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, 2018*) (a) As used in this
2 section:

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

6 (2) "Employee" means any person engaged in service to an employer
7 in a business of such employer;

8 (3) "Political matters" means matters relating to: Elections for
9 political office, political parties, legislation, regulation and the decision
10 to join or support any political party or political, civic, community,
11 fraternal or labor organization; and

12 (4) "Religious matters" means matters relating to religious affiliation
13 and practice and the decision to join or support any religious

14 organization or association.

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

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

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

44 (e) Nothing in this section shall be construed to limit an employee's
45 right to bring a common law cause of action against an employer for
46 wrongful termination or to diminish or impair the rights of a person

47 under any collective bargaining agreement.

48 (f) Nothing in this section shall prohibit: (1) A religious organization
 49 from requiring its employees to attend a meeting sponsored by such
 50 religious organization or to participate in any communications with
 51 such religious organization or its agent, representative or designee, the
 52 primary purpose of which is to communicate such religious
 53 organization's religious beliefs, practices or tenets; (2) a political
 54 organization from requiring its employees to attend a meeting
 55 sponsored by such political organization or to participate in any
 56 communications with such political organization or its agent,
 57 representative or designee, the primary purpose of which is to
 58 communicate such political organization's political tenets or purposes;
 59 (3) an institution of higher education, or any agent, representative or
 60 designee of such institution, from meeting with or participating in any
 61 communications with its employees concerning political or religious
 62 matters that are part of the regular coursework or any symposia or
 63 academic program at such institution; (4) casual conversations
 64 between employees, between an employee and an employer or
 65 between an employee and an agent, representative or designee of an
 66 employer, provided participation in such conversations is not required
 67 and such conversations occur in the normal course of the employee's
 68 duties; (5) an employer from discussing legislation, regulations,
 69 executive orders or other government actions with an employee that
 70 may directly impact the employer's business, how the employer's
 71 business may be conducted or how an employee's work may be
 72 performed; or (6) a requirement limited to the employer's managerial
 73 and supervisory employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	New section

JUD *Joint Favorable Subst.*

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:** None**Municipal Impact:** None**Explanation**

The bill, which prohibits employers from requiring employees to attend certain meetings and allows any employee who was discharged, disciplined, or otherwise penalized in violation of the bill to bring a civil action before the court, does not result in a fiscal impact. The court system disposes of over 400,000 cases annually and the number of cases is not anticipated to be great enough to need additional resources.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 5473*****AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS.*****SUMMARY**

This bill generally prohibits employers, including the state and its political subdivisions, from requiring their employees to attend an employer-sponsored meeting with the employer if the meeting's primary purpose is to communicate the employer's opinion about political or religious matters (i.e., "captive audience" meetings; see BACKGROUND). Under the bill, "employers" also include the employer's agents, representatives, or designees.

Under the bill:

1. "political matters" are matters relating to (a) elections for political office, (b) political parties, (c) legislation, (d) regulation, and (e) decisions to join or support any political party or political, civic, community, fraternal, or labor organization and
2. "religious matters" are matters relating to (a) religious affiliation and practice and (b) the decision to join or support any religious organization or association.

The bill allows certain exceptions to its prohibition, such as allowing: (1) employers and employees to discuss political or religious matters in casual, non-mandatory conversations and (2) employers that are religious organizations to require their employees to attend meetings about the organization's religious beliefs, practices, or tenets.

The bill establishes job protections for employees who report violations of the bill and allows them to bring civil suit against an employer who violates these job protections. (However, it appears that the bill does not provide any enforcement mechanism against

employers who violate its prohibition on holding captive audience meetings.)

EFFECTIVE DATE: October 1, 2018

EXCEPTIONS

The bill allows exceptions to its prohibition on captive audience meetings if the law requires the employer to communicate about religious or political matters, but only to the extent of the legal requirement. It also exempts casual conversations between employees, and between employees and employer, as long as they are not required and occur in the normal course of the employees' duties. Employers may also (1) discuss with an employee legislation, regulations, executive orders, or other government actions that may directly impact the employer's business and how it may be conducted, or how an employee's work may be performed and (2) require captive audience meetings that are limited to the employer's managerial and supervisory employees.

The bill also allows exemptions specific to certain types of organizations and their agents, representatives, or designees. These allow:

1. a religious organization to require its employees to communicate with it or attend a meeting it sponsors if the primary purposes is to communicate the religious organization's religious beliefs, practices, or tenets;
2. a political organization to require its employees to communicate with it or attend a meeting it sponsored if the primary purpose is to communicate the political organization's political tenets or purposes; and
3. an institution of higher education to communicate or meet with its employees about political or religious matters that are part of the institution's regular coursework, symposia, or academic programs.

EMPLOYEE PROTECTIONS

The bill bans employers 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. (It is unclear who the employee would be reporting to, as the bill does not require any state agency to investigate and resolve complaints about prohibited captive audience meetings or otherwise enforce the ban against them.)

ENFORCEMENT

The bill allows any employee who was discharged, disciplined, or otherwise penalized in violation of the bill, to bring a civil action within 90 days of the alleged violation. (Since the bill only prohibits employers from discharging, disciplining, or penalizing employees who report a captive audience meeting, it appears that it does not allow an employee to bring a civil suit alleging that he or she was required to attend a captive audience meeting.)

The action must be brought in the Superior Court for the judicial district where the violation is alleged to have taken place or where the employer has its principal office. The court may award a prevailing employee all appropriate relief, including rehiring or reinstatement to his or her former position, back pay, and reestablishment of any employee benefits that the employee would have been eligible for if the violation had not occurred. The court must also award a prevailing employee triple monetary damages 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***Captive Audience Meetings and the National Labor Relations Act***

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

The NLRB generally allows captive audience meetings as long as they are held more than 24 hours before a union election and the employer does not commit an unfair labor practice, such as threatening reprisal for supporting a union (*Peerless Plywood Co.*, 107 NLRB 427 (1953)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 25 Nay 14 (04/02/2018)