
OLR Bill Analysis

SB 64

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" relate 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" relate to (a) religious affiliation and practice and (b) decisions to join or support any religious organization or association.

The bill provides 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 certain job protections for employees who report violations of the bill and allows them to bring a civil suit against an employer who violates the protections. (However, it is unclear if the bill provides any enforcement mechanism against employers who violate its prohibition on holding captive audience meetings.)

EFFECTIVE DATE: October 1, 2019

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 provides exceptions 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 organization's religious beliefs, practices, or tenets;
2. a political organization to require its employees to communicate with it or attend a meeting it sponsors if the primary purpose is to communicate the 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 prohibits 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 verbal or written report about a violation or suspected violation of the bill. This protection does not apply if the employee knows the report is false. (It is unclear to whom the employee would report, as the bill does not require any state agency to investigate complaints about prohibited captive audience meetings or otherwise enforce the ban against them.)

ENFORCEMENT

The bill allows an employee who was discharged, disciplined, or otherwise penalized in violation of the bill, to bring a civil action within 90 days after the alleged violation. (Since the bill only explicitly prohibits employers from discharging, disciplining, or penalizing employees who report a captive audience meeting, it is unclear if the bill also allows an employee to bring a civil suit alleging that he or she was (1) required to attend a captive audience meeting or (2) discharged, disciplined, or penalized for refusing to attend one.)

The action must be brought in the Superior Court for the judicial district where the violation is alleged to have occurred or where the employer has its principal office. The court may award a prevailing employee all appropriate relief, including rehire 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 triple monetary damages plus reasonable attorney's fees and costs to a prevailing employee.

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

The National Labor Relations Act and Federal Preemption

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 and federal courts have generally allowed 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 (See, e.g., *Peerless Plywood Co.*, 107 NLRB 427 (1953); *Linn v. United Plant Guard Workers*, 383 U.S. 53 (1966); and *Chamber of Commerce v. Brown*, 554 U.S. 60 (2008)).

In 2018, Attorney General Jepsen issued a formal opinion on HB 5473 (2018), and concluded that a court would likely determine that the bill (which has identical language to this bill) is preempted by federal law (Opinion 2018-02).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 5 (03/14/2019)