



Testimony of
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Judiciary Committee
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SB 163 An Act Protecting Employee Freedom of Speech and Conscience

Good afternoon Senator Winfield, Representative Stafstrom and members of Judiciary Committee. My name is Ed Hawthorne, and I am proud to serve as the President of the Connecticut AFL-CIO, a federation of hundreds of local unions representing more than 200,000 members in the private sector, public sector, and building trades. Our members live and work in every city and town in our state and reflect the diversity that makes Connecticut great. Thank you for the opportunity to testify today in support of SB 163 An Act Protecting Employee Freedom of Speech and Conscience.

Imagine you are a housekeeper in a large hotel chain. You are a female legal permanent resident with limited proficiency in English. You and your colleagues, anxious for better wages and a more reasonable workload, have begun the process of forming a union. In response, your employer hires and dispatches teams of anti-union consultants into the hallways of the hotel. Without warning, four men come to the room you are cleaning, close the door and begin asking you questions in English about your desire to form a union. They raise their voices. They block the door. When you tell them why you want to join a union, they threaten your job and your immigration status. You feel cornered and afraid. You have no protections, no voice, and no choice but to endure the intimidation.

This is what happened to several housekeepers in Stamford. Their experiences are not that different from thousands of workers across this state, in many industries, who have been subjected to captive audience meetings and employer pressure tactics. They just want the harassment to stop. They just want to do their jobs and have a fair shot at making ends meet. SB 163 will afford them that right.

Arguably cherished most among all rights is the freedom of speech. In theory, the concept is simple – the First Amendment to the U.S. Constitution grants us the liberty to speak our minds without fear of being censored or persecuted. But in reality, workers' freedom of speech, for some employers, is regarded as a disposable annoyance and disregarded in the workplace.

The United States Supreme Court has recognized that it is a form of coercion to make people listen and that no one has the right to press even 'good' ideas on an unwilling recipient. Those are violations of the First Amendment. Yet that is exactly what happens when employers convene mandatory meetings during work hours to discuss the employer's position on religious or political matters. SB 163 protects workers' constitutional rights of freedom of speech and conscience by establishing a minimum state labor standard that allows employees to refuse to attend captive audience meetings and refuse to listen to speech communicating the employer's opinion concerning religious or political matters. It's a necessary remedy to protect employees' freedom of speech.

CAPTIVE AUDIENCE MEETINGS

A captive audience meeting is a mandatory closed-door meeting held during work hours by the employer. It is designed to discourage workers from joining the union by instilling fear. They are often conducted one-on-one or in small groups.

Though these meetings are often described as informational by the employer, fear can be a motivating factor and employers use it to coerce their employees to act in their interests. Captive audience meetings often include management exhortations, carefully scripted to fall within the wide latitude afforded employers under federal law, to deter workers from choosing a union. They unfairly present lies and misrepresentations without the employee being afforded an alternative opinion or the option to go back to work. Common threats and mistruths uttered by employers during captive audience meetings include:

- *If workers vote to form a union, they will lose your jobs.*
- *Having a union will force the company to close, lay off workers, outsource the jobs and/or move to another state.*
- *The employer will be forced to cut wages and/or hours if workers vote to form a union.*
- *Voting for a union will endanger workers' legal work status.*
- *The union will undermine labor-management relations and prohibit workers from speaking directly with their employer.*
- *The union isn't interested in helping workers. It only cares about money and will put a lien on workers' homes if they don't pay union dues.*

Almost without limits, employers can force workers to attend these captive-audience meetings. Management can impose a "no questions or comments" rule and discipline any worker who speaks up during a captive audience meeting. **Employers can even fire workers who do not attend or get up and leave.**

An Economic Policy Institute study found that 63% percent of employers interrogate workers in one-on-one captive audience meetings and 54% of employers threaten workers in such meetings.¹ It also found the average employer holds more than ten captive audience meetings during a union organizing drive.

Connecticut employers have frequently utilized captive audience meetings and other hostile tactics when workers have sought to form a union. Some recent examples include:

- **Glanbia Nutritionals** employees in Orange are currently seeking to form a union. Despite having a union workforce at its company headquarters in Kilkenny, Ireland, management has hired Action Resources, a union-busting firm, to hold captive audience meetings with their Connecticut employees.
- **Dollar General** gained national notoriety for its November 2021 union-busting efforts. The company posted \$33.7 billion in sales and a \$2.7 billion profit in 2020, fought union organizing efforts at its store in Barkhamsted.² The company paid Labor Relations Institute, a union avoidance firm, \$2,700 per day for each of the five consultants it brought in, to hold one-on-one and group captive audience meetings with its six employees. They also flew in three out-of-state executives to work alongside employees during the campaign. Management fired one union supporter and threatened to permanently close the store if the workers voted for a union. Workers were unable to overcome the wave of employer intimidation and harassment and were unable to form a union.

¹ <http://www.epi.org/publication/bp235/>

² <https://www.washingtonpost.com/nation/interactive/2021/worker-revolt-comes-dollar-general-connecticut/>

- **McDonald's employees at the Darien Service plaza on I-95** have been forced to attend captive audience meetings on state property since 2019. The employer has fired union supporters and told workers that their union organizing efforts are futile.³
- **Apple Rehabilitation nurses in Waterbury** sought to organize in 2020. The supervisor took each employee into their office, told them they knew they had signed a union card, and that they must revoke it. They were told if the facility gained a union for the nurses, the nurses would lose their full-time status. When that was not enough, the employer gave a \$1.25 raise to each nurse, and told them they would lose it if a union came in.
- **The Town of Newington** held individual captive audience meetings with bus drivers who wanted to form a union in March 2020. Management terminated the lead organizer and created such a fearful environment that the union election failed.
- **Hebrew Senior Care workers** in West Hartford voted unanimously to form a union in October 2019. Management hired one anti-union consultant for every seven employees. They also spoofed the lead union organizer's cell phone, sending text messages to workers with divisive racial missives and threatening to slash their tires if they voted for a union
- **Foxwoods Casino environmental service workers** formed a union in 2018. Management responded with inflammatory misinformation and daily captive audience meetings, even threatening workers' immigration status.
- **Becton Dickinson & Company manufacturing workers** in Canaan tried to unionize in 2018. Management hired out-of-state "union avoidance" firms to hold 2-3 captive audience meetings per day.
- **Severance Foods workers** in Hartford were inundated with incendiary half-truths and forced to endure many captive audience meetings before voting to form a union in February 2018.
- **Stamford Hilton Hotel service workers**, most of them female immigrants, were forced to attend one-on-one captive audience meetings before winning a union election in December 2017.
- **Stamford Sheraton Hotel workers** voted to form a union in 2019 after suffering a brutal campaign of captive audience meetings and other intimidation techniques designed by Cruz & Associates, a "union avoidance" firm previously employed by Donald Trump. Some individual workers were subjected to 4:1 captive audience meeting, i.e., four managers to one employee.
- **Non-professional employees at Danbury Hospital** endured an intensive campaign of captive audience meetings and employee surveillance conducted by management and their hired consultants in 2017. Despite the constant and persistent intimidation tactics, workers were successful in forming a union.

SB 163 protects employees and their right to exercise their freedom of speech and join a union. It prohibits employers from coercing employees to attend or participate in meetings for the purpose of forcing the employers' position on politics, religion, or labor organizing activities. ***It does not restrict the employers' free speech. Rather, it allows an employee the right -- when the subject of the meeting is about the employers' position on politics, religion or labor organizing -- to stop listening, walk away, return to work and not participate without the fear of facing discipline or termination.***

³ <https://www.fox61.com/article/news/local/mcdonalds-workers-union-fight-local-franchise-corporate-offices/520-ae52e412-d6ff-48d9-8e2f-e5c42c4be971>

EMPLOYER-COERCED POLITICAL SPEECH

While much of the focus on this bill has been about protecting workers' freedom of speech around union organizing issues, employees also need protection from employers' forced political speech.

The U.S. Supreme Court's 2011 *Citizens United v. Federal Election Commission* decision not only allowed corporations to spend unlimited dollars from their corporate treasuries on political campaigns; it also expanded the First Amendment rights of corporations, giving employers greater ability to force their political views in the workplace. They can require employees to attend meetings about politics, or even specific candidates. They can encourage employees to make political contributions to candidates and they can distribute "voter guides" to employees that make the employer's political positions crystal clear.

Companies frequently try to persuade and mobilize their employees to support politicians and policies beneficial to the corporation. In 2012, the CEO of Westgate Resorts said, he would have "no choice but to reduce the size of this company" if President Barack Obama were reelected. The CEO of a software company in Florida warned that "if the U.S. re-elects President Obama, [the company's] chances of staying independent are slim to none." Even Mitt Romney encouraged business owners to "make it very clear to your employees what you believe is in the best interest of your enterprise and therefore their job and their future in the upcoming elections."⁴

A 2015 survey of about 1,000 U.S. employees conducted by a Harvard researcher found that 25 percent said they experienced some kind of political message from their employer, ranging from simple voter registration efforts at work to messages about political candidates. Seven percent of the respondents said they felt these messages were "somewhat coercive" and another 7 percent said, "strongly coercive."⁵

In Connecticut, health insurance giant UnitedHealth Group pressured its Hartford rank-and-file employees to mobilize against legislative efforts to create a state-level public health insurance option in 2020. The Vice President of External Affairs instructed employees to call their legislators and express their concerns about Connecticut's public option proposal.⁶

Federal law has not kept up with the changes brought by *Citizens United*. In 2016, the Federal Election Commission deadlocked along party lines over whether to even investigate allegations that coal baron Robert Murray coerced employees at his company, Murray Energy Corporation, into making campaign contributions.⁷

There are no federal labor protections for employees who are fired or punished for refusing to participate in an employer's political agenda. Oregon and New Jersey have enacted laws that prohibit employers from terminating or disciplining employees who decline to participate in employer-sponsored activities or communications about religious or political matters. SB 163 would similarly shield Connecticut workers left exposed by gaps in the federal law.

SB 163 protects a worker's fundamental right of freedom of speech against employers who misuse their authority by coercing speech concerning core matters of individual conscience unrelated to their jobs. We urge the Committee to provide much needed protection to those who have been subjected to employer harassment and intimidation that tread on their First Amendment rights. Please support SB 163. Thank you.

⁴ <http://www.chicagotribune.com/business/ct-boss-politics-at-work-20161021-story.html>

⁵ Ibid

⁶ <https://jacobinmag.com/2021/04/unitedhealth-public-option-connecticut-health-insurance>

⁷ <https://prospect.org/blog/checks/fec-deadlocks-over-employer-political-coercion>