
Commerce & Labor Committee

HB 2089

Brief Description: Prohibiting the use of state funds provided for long-term care services from being used to assist, promote, or deter union organization.

Sponsors: Representatives Moeller, Conway, Strow, Green, Haler, Seaquist, Chase, Appleton, McDermott, Ormsby, Fromhold, Kessler, Sells, Simpson, P. Sullivan, Kenney, VanDeWege, Campbell and Hudgins.

Brief Summary of Bill

- Prohibits employers, providers, and entities receiving state funds to provide long-term care services from using these funds to assist, promote, or deter union organization.

Hearing Date: 2/22/07

Staff: Jill Reinmuth (786-7134).

Background:

Under the federal National Labor Relations Act (NLRA), covered employees in the private sector have various rights related to collective bargaining. These rights include the right to form, join, or assist labor organizations and the right to refrain from these activities. It is an unfair labor practice for an employer or a union to interfere with, restrain, or coerce employees in the exercise of these rights or to discriminate against employees in regard to hiring or job tenure to encourage or discourage membership in a labor organization. It is not an unfair labor practice for an employer to express his or her views if the expression of views contains no threat of reprisal or promise of benefit.

These employee rights are referenced in a number of laws providing federal funding for specific programs. For example, the Workforce Investment Act requires recipients of funding to provide assurances to the Secretary of the Department of Labor that the funds will not be used to assist, promote, or deter union organizing.

California and New York have adopted laws that restrict employers who receive certain funds from the state under a grant or contract from using these funds to encourage or discourage union

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organizing. The United States Court of Appeals for the Ninth Circuit upheld California's law in September 2006, finding that the restrictions were not preempted by the NLRA and did not violate the First Amendment. (A petition for review of the Ninth Circuit decision was filed with the United States Supreme Court in January 2007.) The United States Court of Appeals for the Second Circuit reversed a District Court decision upholding New York's law in December 2006, and remanded the case for resolution of disputed facts.

Summary of Bill:

Employers, providers, and entities receiving state funds to provide long-term care services (employers) may not use these funds to assist, promote, or deter union organization. Prohibited activities are:

- training managers, supervisors, and other administrative personnel regarding methods to encourage or discourage union organization or to encourage or discourage an employee from participating in a union organization drive;
- hiring attorneys, consultants, and other contractors to encourage or discourage union organization or to encourage or discourage an employee from participating in a union organization drive; and
- hiring employees or paying the salary of employees whose principal duties are to encourage or discourage union organization or to encourage or discourage an employee from participating in a union organization drive.

Employers that engage in prohibited activities must maintain financial records for three years indicating that state funds were not used for prohibited activities. Employers must make these financial records available to the Department of Social and Health Services (Department) within 20 business days of receiving a request for the documents.

If adult family home providers, nursing homes, or providers of assisted living services, adult residential care services, or enhanced adult residential care services use funds to engage in prohibited activities, the Department may take one or more of the following actions:

- suspend, revoke, or refuse to issue or renew a license or contract;
- impose civil penalties of not more than \$100 per day per violation; or
- suspend admissions by imposing stop placement on contracted services.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on February 13, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.