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**SUBSTITUTE SENATE BILL 5446**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Prentice, Kohl-Welles, Keiser, McDermott, Fairley, Franklin, Kline, Murray, Ranker, Tom, Shin, Regala, Hobbs, Kauffman, Pridemore, McAuliffe, Kastama, Hatfield, Oemig, Fraser, and Jacobsen)

READ FIRST TIME 02/25/09.

1       AN ACT Relating to prohibiting certain employer communications  
2 about political or religious matters; adding new sections to chapter  
3 49.44 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.   **Sec. 1.** (1) Employees in Washington state have a  
6 first amendment right to not attend a meeting, or listen to, or respond  
7 to, or participate in communication by their employer on political or  
8 religious matters as defined in section 2 of this act.

9       (2) Employers in Washington state have a first amendment right to  
10 express their views to their employees on political and religious  
11 matters as defined in section 2 of this act in any usual and customary  
12 ways. For example, employers may conduct employee meetings,  
13 disseminate literature, or send e-mails to employees regarding their  
14 political and religious views but shall not be able to require  
15 employees to attend these meetings, or listen to, or respond to, or  
16 participate in this communication.

17       NEW SECTION.   **Sec. 2.** The definitions in this section apply

1 throughout this section and sections 3 through 5 of this act unless the  
2 context clearly requires otherwise.

3 (1) "Adverse employment action" means discharge, discipline, or any  
4 adverse change in the status or the terms and conditions of the  
5 employee's employment.

6 (2) "Employee" means the same as provided in RCW 49.12.005(4).

7 (3) "Employer" means an employer, as defined in RCW  
8 49.12.005(3)(b), and includes any person acting in the interest of such  
9 an employer.

10 (4) "Political matters" means matters directly related to  
11 candidates, elected officials, ballot propositions, legislation,  
12 election campaigns, political parties, and political, community, and  
13 labor or other mutual aid organizations.

14 (5) "Religious matters" means all aspects of religious observance  
15 and practice, as well as belief.

16 NEW SECTION. **Sec. 3.** (1) An employer may not require an employee  
17 to attend a meeting, or listen to, or respond to, or participate in,  
18 any communication relating to political or religious matters as defined  
19 in section 2 of this act.

20 (2) An employer may not take or threaten to take an adverse  
21 employment action against an employee because the employee:

22 (a) Refuses to attend a meeting or listen or otherwise respond to,  
23 or participate in, any other communication that the employee reasonably  
24 believes violates or would violate this section;

25 (b) Challenges or opposes any practice or action that the employee  
26 reasonably believes violates or would violate this section; or

27 (c) Makes a claim, files suit, testifies, assists, or participates  
28 in any manner in any investigation, proceeding, or hearing involving  
29 any practice or action that the employee reasonably believes violates  
30 or would violate this section.

31 (3) This section does not:

32 (a) Apply to any requirement related to meetings or any other  
33 communications about religious matters by an employer that is a  
34 religious organization, corporation, association, educational  
35 institution, or society;

36 (b) Prohibit any employer from requiring its employees to attend a  
37 meeting, listen or otherwise respond to, or participate in, any other

1 communications that are (i) reasonably necessary to the performance of  
2 actions by the employees that may be lawfully required; and (ii)  
3 related to the normal operation of the employer's business or  
4 enterprise.

5 NEW SECTION. **Sec. 4.** An employee aggrieved by a violation of  
6 section 3 of this act may bring a civil action in the superior court  
7 for the county where the violation is alleged to have occurred or where  
8 the employer has its principal office. The court may award a  
9 prevailing employee injunctive relief, rehiring or reinstatement of the  
10 employee to the employee's former position or equivalent position, back  
11 pay and restoration of any other terms and conditions of employment to  
12 which the employee would otherwise have been eligible if the violation  
13 had not occurred, damages for any reasonably foreseeable losses  
14 sustained by the employee as a result of such a violation, and any  
15 other appropriate relief as deemed necessary by the court to make the  
16 employee whole and to restrain violations of section 3 of this act.  
17 The court shall award a prevailing employee an additional one hundred  
18 percent of back pay as liquidated damages to compensate for harms  
19 caused by the delay in payment, together with reasonable attorneys'  
20 fees and costs.

21 NEW SECTION. **Sec. 5.** Employers shall post a notice of employee  
22 rights under this act in a conspicuous place accessible to the  
23 employees at the employer's place of business.

24 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each  
25 added to chapter 49.44 RCW.

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