
Labor & Workplace Standards Committee

ESSB 5778

Brief Description: Protecting the rights of workers to refrain from attending meetings or listening to their employer's speech on political or religious matters.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Lovick, Conway, Trudeau, Stanford, Randall, Shewmake, Dhingra, Van De Wege, Nguyen, Valdez, Kauffman, Hasegawa, Lovelett, Liias, Frame, Hunt, Cleveland, Kuderer, Nobles, Salomon and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Prohibits an employer from taking adverse action against an employee for refusal to attend or participate in an employer-sponsored meeting or refusal to listen to speech, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters.

Hearing Date: 2/16/24

Staff: Kelly Leonard (786-7147).

Background:

An employer is generally permitted to require employees to attend meetings during which the employer communicates its positions on political or religious issues, with some exceptions.

The National Labor Relations Act, which governs collective bargaining between labor organizations and private employers, has been interpreted by courts and the National Labor Relations Board (NLRB) to allow these types of meetings in the context of collective

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bargaining. An employer can hold a "captive audience" meeting where it requires its employees to attend meetings in which it expresses views on labor organizing, provided that the content of the employer's speech is not coercive in nature. The NLRB has established a limited exception, prohibiting these meetings in the final 24 hours prior to a union election. The Public Employment Relations Commission, which administers state law on public sector labor relations, has adopted a similar restriction for public sector employers.

Federal and state laws governing other aspects of public or private sector employment relationships may affect employer speech in mandatory meetings, depending on the nature of the speech and the context in which it is conveyed. For instance, federal and state antidiscrimination laws may apply if the speech is of a discriminatory nature. Public sector employers may also be limited by certain constitutional restrictions, including, for example, the constitutional restriction against government-sponsored religion.

Summary of Bill:

Restrictions on Certain Mandatory Meetings and Communications.

A private or public employer may not subject or threaten to subject any employee to discipline or discharge, or otherwise penalize or take any adverse employment action against an employee: on account of the employee's refusal to attend or participate in an employer-sponsored meeting, or listen to speech or view communications, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters; as a means of requiring an employee to attend a meeting or participate in communications, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters; or because the employee, or a person acting on behalf of the employee, makes a good faith report, orally or in writing, of a violation or a suspected violation of the bill.

"Political matters" means matters relating to elections for political office, political parties, proposals to change legislation, proposals to change regulations, and the decision to join or support any political party or political, civic, community, fraternal, or labor association or organization.

"Religious matters" means matters relating to religious affiliation and practice, and the decision to join or support any religious organization or association.

Civil Action.

An aggrieved employee may bring a civil action within 90 days of the alleged violation. The court may award a prevailing employee all appropriate relief, including injunctive relief, reinstatement, back pay and reestablishment of benefits, and any other appropriate relief considered necessary by the court.

Notices.

An employer must post a notice of employee rights described in the bill in a place normally reserved for employment-related notices and in a place commonly frequented by employees.

Exceptions.

The bill does not apply to any religious entity exempt from the requirements of Title VII of the Civil Rights Act of 1964, with respect to speech on religious matters to employees who perform work connected with the activities undertaken by the religious entity.

The bill does not:

- prohibit an employer from communicating to its employees any information that the employer is required by law to communicate, but only to the extent of the legal requirement;
- limit the rights of an employer to offer meetings, forums, or other communications about religious or political matters for which attendance or participation is strictly voluntary;
- limit the rights of an employer or its agent, representative, or designee from communicating to its employees any information, or requiring employee attendance at a meeting or other event, that is necessary for the employees to perform their lawfully required job duties; or
- prohibit an employer or its agent, representative, or designee from requiring its employees to attend any training intended to reduce and prevent workplace harassment or discrimination.

Appropriation: None.

Fiscal Note: Not requested.

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