

SENATE BILL REPORT

SB 5417

As of January 23, 2023

Title: An act relating to protecting the rights of workers exercising their right to refrain from attending meetings or listening to their employer's speech on political or religious matters.

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: Senators Keiser, Conway, Hasegawa, Hunt, Saldaña, Stanford, Valdez and Wilson, C..

Brief History:

Committee Activity: Labor & Commerce: 1/23/23.

Brief Summary of Bill

- Prohibits an employer from disciplining or discharging an employee for refusal to attend an employer-sponsored meeting, listen to speech, or view communications, when the primary purpose of which is to communicate the employer's opinion concerning religious or political matters.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

Background: In general, employers are not prohibited from requiring employees to attend meetings where the employer communicates its positions on issues. One exception involves certain labor relations communications. Under National Labor Relations Board (NLRB) and federal court precedent, an employer does not commit an unfair labor practice by requiring employees to attend speeches about unionization on the employer's premises during work hours as long as the speech is not coercive. There are, however, limitations around representation elections, where election speeches on company time to a massed assembly of

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

employees within 24 hours of an election is prohibited.

For public employees, the Public Employment Relations Commission has a similar rule around elections, prohibiting election speeches on the employer's time to massed assemblies of employees during:

- the period polls are open in an on-site or electronic election; or
- the period beginning on the scheduled date for a mail-ballot election and continuing through the deadline for mail ballots.

In April of 2022, the general council for the NLRB issued a memorandum stating that requiring employees to listen to employer speech under the threat of discipline violates the National Labor Relations Act. Additionally, the memorandum stated that the general counsel will ask the NLRB to reconsider current precedent on mandatory meetings.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): An employer may not discipline or discharge, or threaten to discipline or discharge, an employee on account of the employee's refusal to:

- attend an employer-sponsored meeting, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters; or
- listen to speech or view communications, including electronic communications, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters.

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 such legal requirement;
- an employer from communicating to its employees any information that is necessary for the employees to perform their job duties;
- institution of higher education communications that are part of coursework, symposia, or an academic program; or
- casual conversations between employees or an employee and an agent of the employer, so long as participation in the conversations is not required.

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

An employer who violates the provisions in the bill is liable in a civil action for damages caused by the discipline or discharge, including punitive damages, the full amount of gross loss of wages or compensation, and reasonable attorneys' fees and costs.

"Political matters" means matters relating to elections for political office, political parties, proposals to change legislation, proposals to change regulation, and the decision to join or

support any political party or political, civic, community, fraternal, or labor organization.

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

Appropriation: None.

Fiscal Note: Requested on January 18, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony On Proposed Substitute: PRO: Employers use captive audience meetings to intimidate and threaten employees trying to unionize. Sometimes, employees are not allowed to participate and the meeting is one-sided. Employees will be threatened with layoffs or loss of health insurance benefits. The bill protects the right to not participate in these types of meetings. Employers have a lot of power over employees and use it to make workers participate in speech not related to their job. They are forced to participate in high pressure meetings with their bosses and are not allowed to opt out. The bill does not restrict the speech of employers.

CON: There are already discrimination laws and employers have a free speech right, so the Legislature should tread lightly. The bill may prevent political action committees and unions from communicating with their own employees. The bill is federally preempted and the NLRB has sued over a similar statute in California. The NLRB is already addressing the issue. The bill will result in lawsuits. Employers have a right to bring issues to the table. The penalties should be administrative rather than having a litigation solution. The bill does not cover enough political areas and does not include objectionable philosophical topics.

OTHER: The bill prohibits police chiefs and sheriffs from discussing the impacts of changes to the law before the change is actually enacted. This could delay getting proper responses by law enforcement to legal changes.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Brett Botts, Teamsters Local 313; Rachel Ybarra; Elizabeth Duran; Kian Alden, Teamsters; Kiah Penfield; Friday Sodorff; April Sims, Washington State Labor Council, AFL-CIO.

CON: Rebecca Faust; James King, Independent Business Association; Bob Battles, Association of Washington Business (AWB).

OTHER: Taylor Gardner, WA Assn of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.