
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 399 (Wahab) - Employer communications: intimidation

Version: May 2, 2023

Urgency: No

Hearing Date: May 15, 2023

Policy Vote: L., P.E. & R. 4 - 1, JUD. 9 - 2

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SB 399 would enact the California Worker Freedom from Employer Intimidation Act, as specified.

Fiscal Impact:

- The Department of Industrial Relations (DIR) indicates that it would incur first-year enforcement costs of \$334,000, and \$323,000 annually thereafter, to implement the provisions of the bill (Labor Enforcement Compliance Fund).
- Administrative costs to the Department of Justice (DOJ) have yet to be identified.

Background: Current law, Labor Code § 1101, prohibits an employer from making, adopting, or enforcing any rule, regulation, or policy: forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office; or controlling or directing, or tending to control or direct the political activities or affiliations of employees.

Additionally, Labor Code § 1102 prohibits an employer from coercing, influencing, or attempting to coerce or influence their employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.

Under the direction of the Labor Commissioner, DIR's Division of Labor Standards Enforcement (DLSE) is tasked with administering and enforcing Labor Code provisions concerning wages, hours and working conditions.

Proposed Law: This bill, enacting the California Worker Freedom From Employer Intimidation Act, would among other things, do the following:

- Define "political matters" as matters relating to elections for political office, political parties, legislation, regulation, and the decision to join or support any political party or political or labor organization.
- Define "religious matters" as matters relating to religious affiliation and practice and the decision to join or support any religious organization or association.
- Define "employee" as any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

- Define “employer” as any individual, partnership, association, corporation, or any agent, representative, designee or person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer’s consent and shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.
- Provide that an employer shall not subject, or threaten to subject, an employee to discharge, discrimination, retaliation, or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer’s opinion about religious or political matters, as defined.
- Specify that DLSE shall enforce this Act upon the filing of a complaint by an employee.
- Specify that as an alternative to pursuing enforcement of the Act through the DLSE, an employee who the employer has subjected, or threatened to subject, to discharge, discrimination, retaliation, or any other adverse action on account of the employee’s refusal to attend an employer-sponsored meeting, may bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages. Provide that in a civil action brought, an employee or their exclusive representative may petition the superior court in any county wherein the violation in question is alleged to have occurred, or wherein the person resides or transacts business, for appropriate temporary or preliminary injunctive relief.
- Specify that the California Worker Freedom from Employer Intimidation Act does not apply to any of the following: (1) a political organization or party requiring its employees to attend an employer-sponsored meeting or to participate in any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer’s political tenets or purposes, (2) an educational institution requiring a student or instructor to attend lectures on political or religious matters that are part of the regular coursework at the institution, and (3) a religious corporation, entity, association, educational institution, or society, as specified, with respect to speech on religious matters to employees who perform work connected with the activities undertaken by that religious corporation, entity, association, educational institution, or society.
- Specify that the bill does not prohibit any of the following: (1) an employer from communicating to its employees any information that the employer is required by law to communicate, but only to the extent of that legal requirement, (2) an employer from communicating to its employees any information that is necessary for those employees to perform their job duties, or (3) an institution of higher education, or any agent, representative, or designee of that institution, from meeting with or participating in any communications with its employees that are part of coursework, any symposia, or an academic program at that institution.

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