Date of Hearing: July 11, 2023

ASSEMBLY COMMITTEE ON JUDICIARY
Brian Maienschein, Chair
SB 399 (Wahab) – As Amended May 2, 2023

SENATE VOTE: 26-7

SUBJECT: EMPLOYER COMMUNICATION: INTIMIDATION

KEY ISSUE: SHOULD EMPLOYEES WHOSE EMPLOYER DISCIPLINES OR THREATENS TO DISCIPLINE THEM FOR DECLINING TO ATTEND AN EMPLOYER-SPONSORED MEETING, OR RECEIVING OR PARTICIPATING IN A COMMUNICATION WITH THE EMPLOYER INTENDED TO COMMUNICATE OPINIONS ON RELIGIOUS OR POLITICAL MATTERS BE AUTHORIZED TO FILE A COMPLAINT WITH THE DIVISION OF LABOR ENFORCEMENT STANDARDS OR BRING A CIVIL CLAIM AGAINST THEIR EMPLOYER?

SYNOPSIS

Due to their control over elements of the workplace such as an employee's pay and benefits, employers enjoy outsized influence on their employees' daily lives. This dynamic often exposes the employee to significantly coercive behaviors by the employer, including in the context of captive audience meetings. Captive audience meetings, which typically refer to a mandatory employer-hosted meeting during which the employer communicates their distaste for labor organizing or a specific union, are fairly common across industries.

This bill would prohibit an employer from disciplining or threatening to discipline an employee who declines to attend an employer-sponsored meeting or participate in or receive communications from the employer regarding political or religious matters. The bill is sponsored by the California Labor Federation and the California Teamsters Public Affairs Council. It is supported by a broad coalition of labor unions, community based organizations, and workers advocacy organizations. This bill is opposed by a large coalition of business advocates including the California Chamber of Commerce, as well as a number of construction industry employer advocates. The bill was previously heard by the Assembly Committee on Labor and Employment and passed out on a vote of 5-1.

SUMMARY: Prohibits employers from disciplining or threatening to discipline an employee who declines to attend an employer-sponsored meeting or affirmatively decline to participate in or receive communications with the employer regarding political or religious matters. Specifically, **this bill**:

1) Establishes the California Worker Freedom From Employer Intimidation Act.

2) Defines the following for purposes of this bill:

   a) "Employee" means any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

   b) "Employer" means 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.

c) "Political matters" means matters relating to elections for political office, political parties, legislation, regulation, and the decision to join or support any political party or political labor organization.

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

3) Prohibits an employer, except as specified, from subjecting, or threatening 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 opinions about religious or political matters.

4) Authorizes enforcement by the Division of Labor Standards Enforcement (DLSE) upon the filing of a complaint by an employee.

5) Alternatively to 4) authorizes any 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 to bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages.

6) In a civil action brought pursuant to 5), authorizes an employee or their exclusive representative to petition the superior court in any county wherein the violation in question is alleged to have occurred, or wherein the person resides or transactions business, for appropriate temporary or preliminary injunctive relief.

7) Specifies that the bill does not prohibit any of the following:

a) 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;

b) An employer from communicating to its employees any information that is necessary for those employees to perform their job duties;

c) 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.

8) Exempts all of the following from the provisions of the bill:

a) A religious corporation, entity, association, educational institution, or society that is exempt from the requirements of Title VII of the Civil Rights Act of 1964 or is exempt

from employment discrimination protections of state law, including, but not limited to specified sections of the Government Code and Labor Code, with respect to speech or religious matters to employees who perform work connected with the activities undertaken by that religious corporation, entity, association, educational institution, or society.

b) 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.

c) 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.

9) Includes a severability clause.

EXISTING LAW:

1) Provides a right to free speech and expression. (United States Constitution, First Amendment; California Constitution, Article 1, Section 2.)

2) Provides, through the National Labor Relations Act (NLRA), that it is the policy of the United States to encourage collective bargaining by protecting workers' full freedom of association. The NLRA provides employees at private-sector workplaces the right to seek better working conditions and designation of representation without fear of retaliation. (29 U.S.C. Sections 151-169.)

3) Establishes the National Labor Relations Board (NLRB) as an independent federal agency vested with the power to safeguard employees' rights to organize, engage with one another to seek better working conditions, choose whether or not to have a collective bargaining representative negotiate on their behalf with their employer, or refrain from doing so. The NLRB also acts to prevent and remedy unfair labor practices committed by private sector employers and unions, as well as conducts secret-ballot elections regarding union representation. (29 U.S.C. Section 153.)

4) Provides the Labor Commissioner with authority to take assignment of claims for loss of wages as the result of demotion, suspension, or discharge from employment for lawful conduct occurring during nonworking hours away from the employer's premises. (Labor Code Section 96.)

5) Provides that no employer shall make, adopt, or enforce any rule, regulation, or policy:

a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office.

b) Controlling or directing, or tending to control or direct the political activities or affiliations of employees. (Labor Code Section 1101.)

6) Provides that no employer shall coerce or influence or attempt 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. (Labor Code Section 1102.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: Due to their control over elements of the workplace such as an employee's pay and benefits, employers enjoy outsized influence on their employees' daily lives. This dynamic often exposes the employee to significantly coercive behaviors by the employer, including in the context of captive audience meetings. Captive audience meetings, which typically refer to a mandatory employer-hosted meeting during which the employer communicates their distaste for labor organizing or a specific union, are fairly common across industries. According to the author:

> We live in highly polarized times where political discussions occur all too frequently in the workplace. No worker should be subject to forced indoctrination by their employer on politics, religion, or for exercising their protected rights on the job.
>
> It is important that workers of all religions and political perspectives are free to go to work without feeling coerced or enduring a hostile work environment.
>
> SB 399 prohibits employers from engaging in coercive conduct that requires workers to attend meetings on their views on political matters, religious matters, or constitutionally protected rights. This bill does not infringe on free speech rights and employers are still free to discuss their religious, political, and anti-union views with workers; so long as they do not coerce or force them to listen against their will.

This bill prohibits employers from subjecting or threatening to subject an employee to disciplinary action, including discharge, discrimination, or retaliation, because they decline to participate in an employer-sponsored meeting or affirmatively decline to participate in, receive, or listen to any communications with the employer or its agents that is intended to communicate the employer's political or religious opinions.

Enforcement provisions. This bill establishes two potential enforcement mechanisms. First, the bill authorizes the Division of Labor Standards Enforcement to enforce the prohibitions of the new section upon receipt of a complaint by an employee. Alternatively, the bill authorizes an employee to file a civil claim against an employer to enforce the bill's provisions. However, as currently written, the bill only authorizes this private right of action for employees who have been disciplined or threatened with discipline for refusing to attend an employer-sponsored meeting. The language does not authorize an employee to bring a civil claim against an employer that disciplines or threatens to discipline an employee from affirmatively declining to participate in, receive, or listen to any communications with the employer or its agents or representative regarding religious or political matters.

Based on position letters from both the proponents of the measure, as well as the opposition, it seems that stakeholders have interpreted this subdivision to authorize an employee to bring a claim against their employer for issuing discipline or threatening to do so for an employee's refusal to participate in *either* an employer-sponsored meeting *or* employer-sponsored communication. *Therefore, the author may wish to amend 1137 (e)(1) to clarify that an employee or their exclusive representative may bring a civil claim against their employer for any violation of the prohibited behaviors identified in subdivision (c).*

The bill authorizes an employee who files a civil claim to seek punitive damages, as well as temporary or preliminary injunctive relief. Both forms of relief seem appropriately designed to allow the employee some monetary recovery for any potential harm caused by improper discipline, but also to dissuade the employer's continued violations of the bill's prohibitions.

Some opponents raise concerns that the bill does not sufficiently account for employers who occupy inherently political spaces. Specifically they write:

> "While on its face this bill may appear as if it would not be a problem for local agencies, in reality, SB 399 is overly broad and could pose serious concerns for local jurisdictions. […] Government entities are required to make and implement policies for the benefit of their communities. This may come in the form of internal deliberations, analysis, and vetting of local rules, ordinances or other policies adopted by local or legislative bodies, or the consideration of state and federal legislation, local government positions on such legislation, and implementation of state and federal laws applicable to local government. If enacted, SB 399 would treat many routine government functions as political matters and interfere with government operations. SB 399 may apply to employees required to be present where legislation or regulations/ordinances are debated, such as a city council or board meetings, and even to such mundane tasks as seeking input or analysis from employees as to the implementation of proposed or enacted legislation. Because governments develop and implement policy, any activity could potentially be argued to be political, leading to costly disputes."

The local government advocates conclude by voicing concern that the ambiguity in the language partnered with the private right of action will lead to costly litigation.

The intent of the bill does not seem to be to limit an employee from completing their job duties as assigned or as reasonably expected to arise, including in the context of positions that include a political element. In the context identified by the opponents here, it seems reasonable to conclude that an employee of a city council, for example, who may need to staff a city council meeting that includes topics of discussion that may touch on politics or religion but that are outside the immediate purview of their specific job duties is not the type of incident contemplated by this legislation. Rather, the aim seems to be to protect that same city council employee who may be directed to attend a meeting hosted by the Mayor where the Mayor communicates their distaste for the union attempting to organize the employee's workplace. Moreover, it seems unlikely that a city council employee in this situation would opt to bring litigation against the city simply because they sat through a city council meeting which they were likely aware was a regular part of their job.

The situation described above is arguably exempted by two distinct subparagraphs. First, subparagraph (f)(2) specifies that the prohibition does not extend to an employer communicating to its employees any information that is necessary for those employees to perform their job duties. In the example provided, it seems the language contemplated by either section would cover a scenario in which an employee is required to attend a city council meeting or respond to an email requesting input on the implementation of enacted legislation as a necessary part of their job duties. Second, subparagraph (g)(2) provides that the bill does not apply to 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. In the event (f)(2) is not

sufficiently expansive, (g)(2) may also function to address the situations in which, for example, a city expresses their intent to support or oppose proposed legislation, assuming local governments and agencies are considered "political organizations or parties." Nonetheless, there is arguably some ambiguity on this point. It is possible that an employee who is tasked with staffing a city council meeting may have job duties that are largely irrelevant to the matters being discussed in that given meeting. While potentially unlikely, it is possible that the discussion of inherently political matters at that meeting may result in the employee feeling they were forced to listen to an employer's political position.

To the extent there is ambiguity on this point, the author may wish to amend the bill to prohibit an employer from disciplining or threatening to discipline an employee for declining to attend a meeting or participate in communication that deals with matters outside of the employee's regular job duties. This approach avoids the risk of implying through omission that mandatory meetings or communications that are not related to politics or religion are otherwise acceptable. *Alternatively, the author may wish to clarify that the exemptions in (f)(2) and (g)(2) extend to employees of various levels of government whose regular job duties involve political or religious speech.* It does not seem advisable, however that an amendment of this sort entirely exempts public employers. Adding such language would not only ensure that employees of state and local government continue to enjoy the protections provided by this legislation.

First Amendment concerns. Opponents of this measure contend that the bill violates the protections guaranteed by the First Amendment. They believe that the bill constitutes a content-based restriction on speech and that it fails to provide the least restrictive means of accomplishing a compelling state interest. The opponents argue that the bill "effectively prohibits employers from providing a forum for discussion, debate and expressing their opinions regarding matters of public concern[.]" Finally, the opposition argues that, contrary to the proponents' position, "there is no general First Amendment right not to listen to speech one doesn't like."

The First Amendment of the United States Constitution provides that, "Congress shall make no law abridging the freedom of speech, or of the press." As applied to the states through the Fourteenth Amendment, and as interpreted by the courts, the First Amendment prohibits any law or policy, at any level of government, from abridging freedom of speech. Any statute that may create a restriction on speech, particularly in examples such as this that identifies political and religious speech, raises the potential of a First Amendment violation.

The threshold element of the First Amendment analysis is whether the legislation imposes a *restriction on speech*. The opponents argue that the bill "effectively prohibits discussions regarding political matters in the workplace" due to its prohibition on employers disciplining employees who decline to attend employer-sponsored meetings or participate in, receive, or listen to communications related the employers' opinion about political matters. Notably, it is does not appear that the language of this bill imposes a restriction on employers' speech. Under the bill, an employer would still be able to host meetings, send emails, post flyers, or otherwise utilize whichever forum they prefer to communicate their political or religious positions. The restriction contemplated by this measure is only as to the type of discipline an employer may mete out in response to an employee's decision not to participate. An employer would not face any liability until and unless they opt to discipline an employee for declining to participate. While the First Amendment protects individuals' right to speak, it does not include any obligation for others to listen. Ultimately it appears that, because the restriction proposed by this

bill relates to the employer's ability to discipline an employee rather than their right to speak, this measure does not violate the First Amendment.

The opposition's subsequent argument, that there is no inherent right to be free from speech that one does not like is generally true. However, this principle relates to an individual's First Amendment protections in that restrictions on speech may be inappropriate in part because one does not have the right to be entirely free from speech with which they disagree particularly if they are able to "avert their eyes". (*Cohen v. California* (1971) 403 U.S. 15.) As previously discussed, it appears there is a strong argument that this bill does not violate the First Amendment as it does not create a restriction on speech and as such this principle would not apply to the current issue.

Legislation similar to this bill has been enacted in Oregon and Connecticut, while the New York legislature is currently debating their own version of the measure. The Oregon statute, which was passed over a decade ago, has survived a number of legal challenges, although it does not appear that the rulings addressed First Amendment arguments or potential preemption concerns. In November of last year, the Chamber of Commerce challenged the Connecticut statute on First Amendment and federal preemption grounds and the case is currently pending in federal court. (Mark Pazniokas, *CT's 'captive audience' law challenge in federal court,* CT Mirror (November 1, 2022) available at: https://ctmirror.org/2022/11/01/ct-captive-audience-law-lawsuit-chamber-tong-union-organizing/#:~:text=The%20Connecticut%20law%20bans%20employers,workers%20to%20sue%20for%20damages.)

NLRA preemption concerns. The opposition raises concerns that this measure is preempted by the National Labor Relations Act. Specifically they state:

> "Employers have the right to express their views and opinions regarding labor organizations. NLRA Section 8(c) following the enactment of that section, the NLRB stated that Congress had intended for both employers and unions to be free to influence employees as long as the speech is noncoercive. The United States Supreme Court also held that Section 8(c) of the NLRA has been interpreted as implementing the First Amendment for employers and as congressional intent to encourage free debate on issues between labor and management, rebuking the position that employer meetings on this topic should be banned as inherently coercive. Chamber of Commerce v. Brown, 554 U.S. 60 (2008); See also Healthcare Ass'n of New York State, Inc. v. Pataki, 471 F.3d 87, 98 (2d Cir. 2006). (Section 8(c) "not only protects constitutional speech rights, but also serves a labor law function of allowing employers to present an alternative view and information that a union would not present.") The Court also interpreted Section 8(c) as precluding the regulation of speech about organizing as long as the speech does not violate other provisions of the NLRA, such as containing threats or promising benefits for voting or not voting for the union. Brown, 554 U.S. at 68. It characterized the NLRA as a whole as favoring robust, uninhibited debate in labor disputes. Id.
>
> Based on the above, it is evident that the NLRA protects the employer's right to require employee attendance in meetings or participation in communications regarding its opinion on union organizing. Further, Section 8(c) was intended to create the "free play of economic forces" by encouraging debate on the issue of unionization. SB 399's prohibition on

employers' rights and interference with free debate over the issue of labor organizing means it is clearly preempted by the NLRA."

In April of last year, NLRB General Counsel Jennifer Abruzzo issued a memorandum announcing her intent to ask the Board to find "mandatory meetings in which employees are forced to listen to employer speech concerning the exercise of their statutory labor rights, including captive audience meetings, a violation of the [NLRA]." (*NLRB General Counsel Jennifer Abruzzo Issues Memo on Captive Audience and Other Mandatory Meetings*, National Labor Relations Board Office of Public Affairs (April 7, 2022) available at: https://www.nlrb.gov/news-outreach/news-story/nlrb-general-counsel-jennifer-abruzzo-issues-memo-on-captive-audience-and.) A month later, an NLRB official sided with the Amazon Labor Union after the union filed an unfair labor practice complaint with the NLRB against the e-commerce titan for forcing workers at an Amazon warehouse on Staten Island to attend "captive audience trainings and said staff were threatened with dismissals if they joined the ALU." (Jeffrey Dastin, *Amazon's captive staff meetings on unions illegal, labor board official finds*, Reuters (May 6, 2022) available at: https://www.reuters.com/business/retail-consumer/amazons-captive-staff-meetings-unions-illegal-us-labor-director-finds-2022-05-06/.)

***ARGUMENTS IN SUPPORT**:* This bill is co-sponsored by the California Labor Federation and the California Teamsters Public Affairs Council. It is supported by a broad coalition of labor unions, community based organizations, and workers advocacy organizations. In support of the bill, the co-sponsors write the following:

> The use of captive audience meetings is widespread and designed to intimidate and scare workers. An Economic Policy Institute study found that 63% of employers interrogate workers in one-on-one captive audience meetings and 54% of employers threaten workers in such meetings. These meetings are designed to deter workers from enforcing their rights on the job—whether it is reporting wage and hour violations, discrimination, sexual harassment, or forming a union to negotiate better wages and safer working conditions.
>
> The effectiveness of captive audience meetings has led to employers using these forced meetings for political and religious purposes. The Royal Dutch Shell company invited then-candidate Trump to give a speech at their facility in 2019. The employers sent a memo to workers stating that attendance of the Trump rally was "not mandatory," but that if they did clock in to work that day they would lose pay and become ineligible to receive the 16 hours of overtime pay. Workers who attended were told that "anything viewed as resistance" would not be tolerated at the event.
>
> These are the most egregious examples of political captive audience meetings, but employers are getting more sophisticated with the help of the Business-Industry Political Action Committee (BIPAC). BIPAC partners with major companies, including Exxon Mobil, Yum Brands, Wendy's, Halliburton, and many others to advise them on how to "transform your employees into an army of pro-business voters" and "mobilize employees to drive success for your policy priorities." BIPAC is developing and deploying the tools employers can and will use to force workers to listen to their political agenda and even to participate in it.
>
> Other examples of coercion happen when workers advocate for their rights. In 2021, Amazon began holding mandatory anti-union meetings with workers at their JFK8 warehouse in New York. Workers at the facility were unionizing in part to address unsafe working conditions. Leaked audio of the meeting obtained by Motherboard illustrates the misrepresentations and

coercive nature of the meetings. In California, Amazon workers in Moreno Valley endured multiple captive audience meetings where they were told they would lose their benefits if they unionized. Workers in Davis accused Peet's Coffee of holding anti-union captive audience meetings, including flying in the president of the company, to unsuccessfully prevent workers from unionizing. Google, REI, Apple Stores, and many more employers have held captive audience meetings after workers began advocating for their rights on the job.

SB 399 prohibits employers from engaging in coercive conduct that requires workers to attend meetings on their views on political matters, religious matters, or constitutionally protected rights. This bill does not infringe on free speech rights and employers are still free to discuss their views with workers, so long as they do not coerce or force them to listen against their will. SB 399 is modeled on a 2022 bipartisan bill signed into law in Connecticut that regulates the same employer conduct. Similar laws exist in Oregon and Wisconsin.

California Rural Legal Assistance Foundation writes the following:

It is important to note that this bill does not end employer free speech, but would bring to an end to the practice of requiring employees to listen to that speech when it is about their views on political matters, religious matters, or constitutionally protected rights.

The bill further clarifies that workers have the freedom to leave a mandatory meeting about their employers' views on religious or political matters, including their support or opposition to political parties or unions.

***ARGUMENTS IN OPPOSITION**:* This bill is opposed by a large coalition of business advocates including the California Chamber of Commerce, as well as a number of construction industry employer advocates. The California Association of Sheet Metal and Air Conditioning Contractors, National Association submits the following:

Under this bill, a potentially aggrieved employee would be allowed to bring a civil action against their employer, agent or representative and seek punitive damages if they felt they were subjected to, or threatened to be subjected to, discharge, discrimination, retaliation, or any other adverse action because they declined to attend an employer-sponsored meeting or declined to participate in, receive, or listen to any communication with the employer or its agents or representatives that may be related to a "political matter." For example, if an employer, including a labor organization, permits employees to attend a City Council meeting during the work day and buys the employees lunch, an employee who elects not to participate could bring a civil action if they were expected to show up to work and were not given a free lunch.

At a minimum, this bill denies our signatory contractors and our partner unions ability to:

- Speak with their employees about taking political actions that are intended to benefit the union construction industry, such as testifying before the Legislature in favor of labor standards;

- Speak with their employees about taking steps to encourage a local government to use union contractors;

- Conduct tours for federal, state or local elected officials at our shops or our Joint Apprenticeship Training Centers (JATCs);

- Publicly discuss and/or endorse candidates for elected office; and

- Discuss impacts of pending legislation or regulations on the industry or business with our employees.

This bill would effectively silence political speech and future workplace collaboration and promotion of the union construction industry in California between our contractors, employees and union representatives and agents.

The California Chamber of Commerce and its coalition submit the following:

SB 399 effectively prohibits discussions regarding political matters in the workplace. Specifically, it prevents employers from requiring employees to attend "an employer-sponsored meeting" or "participate in, receive, or listen to any communications with the employer" where the purpose is to communicate the employer's opinion "about" political matters. It appears the intent of SB 399 is to effectively chill any communications by the employer or in the workplace about political matters. There is no clarity in the bill about what qualifies as an "employer-sponsored" meeting or participating in, receiving, or listening to any communications with the employer, which will cause employers to overcorrect and likely not speak on these matters at all. If an employee drives up to work every day and passes a political sign that the employer has out front, is this a communication? Can they request it to be taken down? If the employer does not do so or tries to assign the worker to a different facility so they do not pass the sign, would that be retaliation? What if the employer is hosting a political event and an employee refuses to work at the event? If the employer does not schedule them next time there is a similar event, can the employee try to claim an adverse action based on reduced hours? If an employer sends out communications saying they are supporting a legislative proposal and some employees request to opt out of those communications because they dislike the legislation, how would the employer ensure that employee never again saw any communication on that issue? Recent amendments also expanded the bill by removing the exception for managerial or supervisory employees.

Further, SB 399 will lead to significant consequences. Under SB 399, employers could not stop an employee from refusing to participate in meetings or communications regarding pending legislation or regulations. As we saw during the COVID-19 pandemic, it is often crucial that employers be able to communicate with their workers on pending new rules and what it would mean for the workplace. Similarly, if there is legislation pending that would have either a positive impact or detrimental impact on the business or workers' job security, this is something workers would want to know about. This bill will chill that speech and is sure to make companies fearful of weighing in support of or opposition to legislation, candidates, ballot measures, and more.

SB 399 also puts employers in a difficult place regarding restricting individual employees' speech. Under the NLRA, for example, the employer cannot stop an employee from discussing the merits of unionization or from talking to coworkers about how they support a candidate that wants to increase minimum wage. How can an employer simultaneously allow that speech while also ensuring that they are not violating SB 399?

The exceptions in the bill are also vague. A "political organization" is undefined, meaning its applicability will be tested through litigation. Similarly, allowing the employer to communicate to employees information "necessary for those employees to perform their job duties" is also sure to be tested through litigation regarding what is "necessary".

Because SB 399 creates a new section of the Labor Code, any good faith error in interpreting the bill or its exceptions creates liability under the Private Attorneys General Act (PAGA), which carries significant penalties of $100 to $200 per employee per pay period. Because trial attorneys walk away as the winners under PAGA by taking at least one third of the total settlement or court award while workers often get mere pennies, SB 399 creates an enticing new cause of action for lawyers to manipulate for financial gain.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation, AFL-CIO (co-sponsor)
California Teamsters Public Affairs Council (co-sponsor)
AFSCME
Alameda Labor Council
American Federation of Labor and Congress of Industrial Unions (AFL-CIO)
California Conference Board of The Amalgamated Transit Union
California Conference of Machinists
California Faculty Association
California Federation of Teachers AFL-CIO
California IATSE Council
California Nurses Association
California Professional Firefighters
California Rural Legal Assistance Foundation, INC.
California School Employees Association
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers - Transportation Division (SMART-TD)
California Teachers Association
California Work & Family Coalition
Center on Policy Initiatives
Central Coast Labor Council
Clergy and Laity United for Economic Justice
Communications Workers of America, District 9
Community Clinic Association of Los Angeles County (CCALAC)
Contra Costa Central Labor Council
Elevator Constructors Local 8
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Hadassah
Ironworkers Local 433
Jewish Center for Justice
Jewish Community Relations Council of Sacramento
Jewish Democratic Club of Silicon Valley
Jewish Family & Children's Service of Long Beach and Orange County
Jewish Family Service San Diego

Jewish Family Services of Silicon Valley
Jewish Federation of The Greater San Gabriel and Pomona Valleys
Jewish Federation of The Sacramento Region
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Silicon Valley
Jobs to Move America
JYS SoCal
North Bay Labor Council
Pillars of The Community
Progressive Zionists of California
Sacramento Central Labor Council, AFL-CIO
San Diego Black Workers Center
State Building and Construction Trades Council of Ca
TechEquity Collaborative
UAW Region 6
Unemployed Workers United
Unite Here International Union, AFL-CIO
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/union of Health Care Professionals
United Steelworkers District 12
Utility Workers Union of America
Warehouse Worker Resource Center
Worksafe

Opposition

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
Associated General Contractors of California
Associated General Contractors-san Diego Chapter
Association of California Healthcare Districts
Association of California Healthcare Districts (ACHD)
Brea Chamber of Commerce
California Apartment Association
California Association for Health Services At Home
California Association of Recreation & Park Districts
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Attractions and Parks Association
California Bankers Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Credit Union League
California Employment Law Council
California Farm Bureau
California Grocers Association

California Hotel & Lodging Association
California Landscape Contractors Association
California League of Food Producers
California Lodging Industry Association
California Manufactures & Technology Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties (CSAC)
California State Council of The Society for Human Resource Management (CALSHRM)
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of California Chambers – Orange County
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Corona Chamber of Commerce
Danville Area Chamber of Commerce
Family Business Association of California
Flasher Barricade Association
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Gilroy Chamber of Commerce
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Hollywood Chamber of Commerce
Housing Contractors of California
Independent Lodging Industry Association.
LA Canada Flintridge Chamber of Commerce
League of California Cities
Murrieta Wildomar Chamber of Commerce
National Federation of Independent Business
Oceanside Chamber of Commerce
Official Police Garage Association of Los Angeles
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California (RCRC)
San Juan Capistrano Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Simi Valley Chamber of Commerce
South County Chambers of Commerce
Southwest California Legislative Council
Templeton Chamber of Commerce
Torrance Area Chamber of Commerce
Tri County Chamber Alliance

Tulare Chamber of Commerce
Urban Counties of California (UCC)
Vacaville Chamber of Commerce
Vista Chamber of Commerce
Western Growers Association
Yorba Linda Chamber of Commerce

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