



Rep. Marcus C. Evans, Jr.

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10300SB3649ham001

LRB103 36890 SPS 73413 a

1 AMENDMENT TO SENATE BILL 3649

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3649 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Worker Freedom of Speech Act.

6 Section 5. Findings; legislative intent.

7 (a) The General Assembly finds that it is in the public  
8 policy interests of the State for all working Illinoisans to  
9 have protections from mandatory participation in  
10 employer-sponsored meetings if the meeting is designed to  
11 communicate an employer's position on religious or political  
12 matters.

13 (b) Employees should not be subject to intimidation  
14 tactics, acts of retaliation, discipline, or discharge from  
15 their employer for choosing not to participate in  
16 employer-sponsored meetings.

1 Section 10. Definitions. As used in this Act:

2 "Department" means the Department of Labor.

3 "Director" means the Director of Labor.

4 "Employee" has the meaning given in Section 2 of the  
5 Illinois Wage Payment and Collection Act.

6 "Employer" has the meaning given in Section 2 of the  
7 Illinois Wage Payment and Collection Act. "Employer" includes  
8 the State or any political subdivision of the State, unit of  
9 local government, or State or local government agency.

10 "Interested party" means an organization that monitors or  
11 is attentive to compliance with public or worker safety laws,  
12 wage and hour requirements, or other statutory requirements.

13 "Political matters" means matters relating to elections  
14 for political office, political parties, proposals to change  
15 legislation, proposals to change regulations, proposals to  
16 change public policy, and the decision to join or support any  
17 political party or political, civic, community, fraternal, or  
18 labor organization.

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

22 "Voluntary" means, with respect to an action, that the  
23 action is not:

24 (1) incentivized by a positive change in any  
25 employment condition, including, but not limited to, any

1 form of compensation or any other benefit of employment;  
2 and

3 (2) taken under threat of a negative change in any  
4 employment condition for non-attendance, including, but  
5 not limited to, the provisions set forth in Section 15,  
6 any negative performance evaluation, or any other adverse  
7 change in any form of compensation or any other benefit of  
8 employment.

9 Section 15. Employee protections. An employer or the  
10 employer's agent, representative, or designee may not  
11 discharge, discipline, or otherwise penalize, threaten to  
12 discharge, discipline, or otherwise penalize, or take any  
13 adverse employment action against an employee:

14 (1) because the employee declines to attend or  
15 participate in an employer-sponsored meeting or declines  
16 to receive or listen to communications from the employer  
17 or the agent, representative, or designee of the employer  
18 if the meeting or communication is to communicate the  
19 opinion of the employer about religious matters or  
20 political matters;

21 (2) as a means of inducing an employee to attend or  
22 participate in meetings or receive or listen to  
23 communications described in paragraph (1); or

24 (3) because the employee, or a person acting on behalf  
25 of the employee, makes a good faith report, orally or in

1 writing, of a violation or a suspected violation of this  
2 Act.

3 Section 20. Right of action. An aggrieved employee may  
4 bring a civil action to enforce any provision of this Act no  
5 later than one year after the date of the alleged violation. A  
6 civil action may be brought by one or more employees for and on  
7 behalf of themselves and other employees similarly situated.  
8 The court may award a prevailing employee all appropriate  
9 relief, including injunctive relief, reinstatement to the  
10 employee's former position or an equivalent position, back  
11 pay, reestablishment of any employee benefits, including  
12 seniority, to which the employee would otherwise have been  
13 eligible if the violation had not occurred, and any other  
14 appropriate relief as deemed necessary by the court to make  
15 the employee whole. The court shall award a prevailing  
16 employee reasonable attorney's fees and costs.

17 Section 25. Powers of the Department and civil penalties.

18 (a) The Department shall inquire into any alleged  
19 violations of this Act, brought to its attention by an  
20 interested party, to institute the actions for the penalties  
21 provided in this Section and to enforce the provisions of this  
22 Act. In addition to the relief set forth in Section 20, an  
23 employer shall be assessed a civil penalty of \$1,000 for each  
24 violation of Section 15, payable to the Department. Each

1 employee who is subject to a violation of Section 15 shall  
2 constitute a separate violation.

3 (b) Upon a reasonable belief that an employer covered by  
4 this Act is in violation of any part of this Act, an interested  
5 party may assert that a violation of this Act has occurred and  
6 bring an action for penalties in the county where the  
7 violation is alleged to have occurred or where the principal  
8 office of the employer is located, pursuant to the following  
9 sequence of events:

10 (1) The interested party submits to the Department a  
11 complaint describing the violation and naming the employer  
12 alleged to have violated this Act.

13 (2) The Department sends notice of complaint to the  
14 named party alleged to have violated this Act and the  
15 interested party. The named party may either contest the  
16 alleged violation or cure the alleged violation.

17 (3) The named party contests or cures the alleged  
18 violation within 30 days after the receipt of the notice  
19 of complaint or, if the named party does not respond  
20 within 30 days, the Department issues a notice of right to  
21 sue to the interested party as described in paragraph (4).

22 (4) The Department issues a notice of right to sue to  
23 the interested party, if one or more of the following has  
24 occurred:

25 (A) the named party has cured the alleged  
26 violation to the satisfaction of the Director;

1 (B) the Director has determined that the  
2 allegation is unjustified or that the Department does  
3 not have jurisdiction over the matter or the parties;  
4 or

5 (C) the Director has determined that the  
6 allegation is justified or has not made a  
7 determination, and either has decided not to exercise  
8 jurisdiction over the matter or has concluded  
9 administrative enforcement of the matter.

10 (c) If, within 180 days after service of the notice of  
11 complaint to the parties, the Department has not (i) resolved  
12 the contest and cure period, (ii) with the mutual agreement of  
13 the parties, extended the time for the named party to cure the  
14 violation and resolve the complaint, or (iii) issued a right  
15 to sue letter, the interested party may initiate a civil  
16 action for penalties. The parties may extend the 180-day  
17 period by mutual agreement. The limitations period for the  
18 interested party to bring an action for the alleged violation  
19 of this Act shall be tolled for the 180-day period and for the  
20 period of any mutually agreed extensions. At the end of the  
21 180-day period, or any mutually agreed extensions, the  
22 Department shall issue a right to sue letter to the interested  
23 party.

24 (d) Any claim or action filed under this Section must be  
25 made within 3 years after the alleged conduct resulting in the  
26 complaint plus any period for which the limitations period has

1 been tolled.

2 (e) In an action brought under this Section, an interested  
3 party may recover against the employer any statutory penalties  
4 set forth in subsection (a) and injunctive relief. An  
5 interested party who prevails in a civil action shall receive  
6 10% of any statutory penalties assessed, plus any attorney's  
7 fees and expenses in bringing the action.

8 (f) Nothing in this Section shall be construed to prevent  
9 an employee from bringing a civil action for the employee's  
10 own claim for a violation of this Act as described in Section  
11 20.

12 Section 30. Notice. Within 30 days after the effective  
13 date of this Act, an employer shall post and keep posted a  
14 notice of employee rights under this Act where employee  
15 notices are customarily placed.

16 Section 35. Exceptions. Nothing in this Act:

17 (1) prohibits communications of information that the  
18 employer is required by law to communicate, but only to  
19 the extent of the lawful requirement;

20 (2) limits the rights of an employer or its agent,  
21 representative, or designee to conduct meetings involving  
22 religious matters or political matters, so long as  
23 attendance is voluntary, or to engage in communications,  
24 so long as receipt or listening is voluntary;

1           (3) limits the rights of an employer or its agent,  
2           representative, or designee from communicating to its  
3           employees any information that is necessary for the  
4           employees to perform their required job duties;

5           (4) prohibit an employer or its agent, representative,  
6           or designee from requiring its employees to attend any  
7           training intended to foster a civil and collaborative  
8           workplace or reduce or prevent workplace harassment or  
9           discrimination;

10          (5) prohibits an institution of higher education, or  
11          any agent, representative, or designee of the institution,  
12          from conducting meetings or participating in any  
13          communications with its employees concerning any  
14          coursework, symposia, research, publication, or an  
15          academic program at the institution;

16          (6) prohibits a political organization, a political  
17          party organization, a caucus organization, a candidate's  
18          political organization, or a not-for-profit organization  
19          that is exempt from taxation under Section 501(c)(4),  
20          501(c)(5), or 501(c)(6) of the Internal Revenue Code from  
21          requiring its staff or employees to attend an  
22          employer-sponsored meeting or participate in any  
23          communication with the employer or the employer's agent,  
24          representative or designee for the purpose of  
25          communicating the employer's political tenets or purposes;

26          (7) prohibits the General Assembly or a State or local



1 legislative or regulatory body from requiring their  
2 employees to attend an employer-sponsored meeting or  
3 participate in any communication with the employer or the  
4 employer's agent, representative, or designee for the  
5 purpose of communicating the employer's proposals to  
6 change legislation, proposals to change regulations, or  
7 proposals to change public policy; or

8 (8) prohibits a religious organization from requiring  
9 its employees to attend an employer-sponsored meeting or  
10 participate in any communication with the employer or the  
11 employer's agent, representative or designee for the  
12 purpose of communicating the employer's religious beliefs,  
13 practices, or tenets.".