



## NEW LAW ALLOWS EMPLOYERS' SPEECH TO FALL ON DEAF EARS

On May 26, Wis. Act 290 went into effect. The Act expands protections for employees against “unfair employment discrimination” by preventing employers from *disciplining* those employees who “decline to attend a meeting or to participate in any communication about religious matters or political matters.”

Like many new laws, much confusion has arisen as to the applicability of this law. The following should help you in understanding the “who, what, where, when, and why” of Wis. Act 290.

### Who Does the Law Apply To?

Act 290 applies to all employers, labor organizations, employment agencies, and licensing agencies who either decline to hire, or punish an employee who refuses to attend a meeting or participate in any communication about religious or political matters.

The law does not forbid employers from speaking about religious or political matters; it simply forbids employers from punishing employees who refuse to listen.

### What Does the Law Apply To?

Act 290 applies to any communication about religious or political matters.

“**Religious matters**” means: religious affiliation or the decision to join, support, or not join or support a *bona fide* religious association.

“**Political matters**” means: political party affiliation, a political campaign, an attempt to influence legislation, or the decision to join, support, or not join, support any lawful political group, *constituent group*, or political/constituent group activity.

The Act further defines “**constituent group**” as: “a civil association, community group, social club, fraternal society, mutual benefit alliance, or labor organization.”

For example, if we break the statute down into plain language, it makes it illegal for an employer to penalize an employee who refuses to attend a meeting about the benefits or *downfalls* of joining a labor organization/union. It would not be illegal, though, for an employer to simply hold a meeting about the benefits or downfalls of joining a labor organization/union.

Thus, if an employer punishes an employee for not attending a meeting where *any* of the above-mentioned topics will be discussed, that employer is in violation of Wis. Act. 290.

### Where Does the Act Apply?

The Act applies anywhere the employer may demand an employee’s attendance for the purpose of discussing religious or political matters.

### When Does the Act Apply?

The Act took effect May 26, 2010 and is currently in full force.

### Why Does the Act Even Exist?

According to the Act, the Wisconsin Legislature found that the practice of unfair discrimination in employment against employees who decline to attend a meeting or participate in any communication about religious or political matters “substantially and adversely affects the general welfare of the state.” The changes were made with the hopes that employers would further “evaluate an employee or applicant for employment based upon individual qualifications of the employee or applicant rather than upon a particular class to which the individual may belong.”

### Conclusion

In summary, employers may continue to hold meetings about political or religious matters; and the Act seems to indicate they can even make these meetings mandatory. Where the Legislature has drawn the line is that employers cannot punish those employees who opt not to attend. Of course, because the employer cannot punish an employee who refuses to attend, the right to make attendance “mandatory” is largely illusory.

The law may be challenged in the weeks and months ahead as unconstitutional on grounds that it interferes with the federal National Labor Relations Act. As always, we will keep you informed of any new developments.

If you have any questions about Act 290 or any other employment-related matter, please contact the Liebmann Conway Employment Law Team: Greg Grobe, [grobe@lcojlaw.com](mailto:grobe@lcojlaw.com); Jodi Arndt, [jla@lcojlaw.com](mailto:jla@lcojlaw.com); Ross Townsend, [rwt@lcojlaw.com](mailto:rwt@lcojlaw.com); or Kurt Goehre, [kag@lcojlaw.com](mailto:kag@lcojlaw.com) .