

<b>LFC Requester:</b>	Randall Soderquist
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**AGENCY BILL ANALYSIS  
2013 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date** January 31, 2013  
**Bill No:** HB 277--305

**Sponsor:** Rep. Christine Trujillo                      **Reviewing**    Attorney General's Office  
**Short**        Prevent Certain Employer                      **Person Writing**    Rick Word, AAG  
**Title:**        Required Meetings                                      **Phone:** 827-6029                      **Email** rword@nmag.gov

**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis: HB 277 would enact a new statute prohibiting, with certain exceptions, the practice of requiring employee attendance at meetings called by a covered employer, its agent, or designee, for the purpose of conveying the employer’s opinions on religious or political matters. The bill would similarly apply to mandatory communications with the employer, the employer’s agent, or designee regarding religious or political topics. The bill would prohibit covered employers or their agents or designees from penalizing or threatening employees for not attending meetings or participating in communications regarding political or religious matters. HB 277 would also prohibit any action by an employer to penalize an employee who, acting in good faith, reports a violation of the provisions of the bill.

HB 277 expressly exempts meetings or communications initiated by religious organizations regarding that organizations religious beliefs, practices or tenets. The bill also exempts political organizations efforts to convey the organization’s political tenets or purposes to its employees.

HB 277 would authorize aggrieved employees to bring an enforcement action in District Court, and expressly provides that a court may award a prevailing employee in such actions treble damages, reasonable attorney fees and other relief including reinstatement and back pay.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

There are no fiscal implications for this agency.

**SIGNIFICANT LEGAL ISSUES**

If enacted, HB 277 could face First Amendment challenges from employers asserting violations of free speech rights in the wake of the U.S. Supreme Court’s *Citizens United* decision. See *Citizens United v. FEC*, 558 U.S 310 (2010). To the extent the bill would restrict an employer’s ability to address employees on union membership, it could also be challenged on the ground that it is preempted by National Labor Relations Act (NLRA), 29 U.S.C. §§159-69. Oregon enacted closely analogous legislation, SB 519, in 2009. See Or. Rev. Stat. §659.785. The Oregon law has been challenged on the grounds that it violates employers’ First Amendment right to free speech and is preempted by the NLRA. The case was dismissed on procedural grounds without reaching the merits of employers challenge. See *Assoc. Oregon Industries and*

*Chamber of Commerce of the U.S.A. v. Avakian*, 2010 U.S. Dist. Lexis 44263.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

There are no performance implications for this agency.

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

No administrative implications are noted for the agency.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

None are noted.

**TECHNICAL ISSUES OR DRAFTING ERROR**

None are noted.

**OTHER SUBSTANTIVE LEGAL ISSUES**

No other substantive legal issues are noted.

**ALTERNATIVES TO ENACTING THIS BILL**

No alternatives to enacting this bill are noted.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

None noted.