IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS POLICY INSTITUTE, Plaintiff, v. ILLINOIS DEPARTMENT OF LABOR *and* JANE R. FLANAGAN, *in her official capacity as Director of the Illinois Department of Labor*, Defendants.	Case No. **Complaint**

1. The First Amendment protects the free-speech rights of both employees and employers—including the employer's right to speak to employees about matters of importance to the employer.

2. Nonetheless, the State of Illinois has enacted a law, misleadingly titled the "Worker Freedom of Speech Act," that forbids employers from speaking to their employees about "religious or political matters" if listening, or attending a meeting in which such matters are communicated, is a condition of their employment—even when such matters are relevant to the employer's business.

3. And the Act defines "political matters" broadly—to encompass not only speech about campaigns and elections, but also speech "relating to . . . proposals to change legislation, proposals to change regulations, proposals to change public policy, and the decision to join or support any political party or political, civil, community, fraternal, or labor organization."

4. Plaintiff Illinois Policy Institute ("the Institute") is a 501(c)(3) nonprofit organization that engages in research related to public policy from a perspective that favors, among other things, civil and personal liberties; effective, efficient, honest, and transparent government; limited government; free markets; and workers' freedom to choose whether to join a labor union.

5. The Institute regularly conducts mandatory staff meetings at which the organization's views on questions of public policy are expressed.

6. The Act now makes those meetings unlawful.

7. This restriction on the Institute's ability to speak to its employees about the very subject matter of the organization's mission violates the Institute's right to free speech under the First Amendment.

8. The Institute therefore seeks declaratory and preliminary and permanent injunctive relief against the Illinois Department of Labor—the agency charged with enforcing the Act—and its Director to protect its right to freedom of speech.

Parties

9. Plaintiff Illinois Policy Institute is a 501(c)(3) nonprofit organization incorporated in Illinois, with its office in Chicago, Illinois.

10. Defendant Illinois Department of Labor is the Illinois state agency charged with enforcing the "Worker Freedom of Speech Act."

11. Defendant Jane R. Flanagan is the Director of Illinois Department of Labor and is sued in her official capacity.

Jurisdiction and Venue

12. This case raises claims under the First and Fourteenth Amendments of the U.S. Constitution and 42 U.S.C. § 1983. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

13. Venue is proper because a substantial portion of the events giving rise to the claims occurred in the Northern District of Illinois. 28 U.S.C. § 1391(b)(2).

Facts

14. The Worker Freedom of Speech Act, Senate Bill 3649, was enacted on July 31, 2024, as Public Act 103-0722, when Governor Pritzker signed it into law. Its effective date is January 1, 2025.

15. The Act prohibits employers from "tak[ing] any adverse employment action" against an employee who refuses to attend meetings or receive communications from the employer intended "to communicate the opinion of the employer about religious matters or political matters." § 15(1).

16. The Act allows any "aggrieved employee" to bring a civil action to enforce its provisions. § 20.

17. Even if an "aggrieved employee" does not bring an action, the Act further empowers the Department of Labor to enforce the Act and "institute the actions for penalties" under the Act, including a civil penalty of $1,000 for each violation payable to the Department. Each employee subject to the violation of the Act constitutes a separate violation. § 25.

18. In addition, the Act allows any "interested party" to submit a complaint with the Department "[u]pon a reasonable belief that an employer" violated the Act.

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

19. After the Department issues a right to sue letter, or 180 days after the service of the complaint, the interested party may initiate a civil action for penalties against the employer. "An interested party who prevails in a civil action shall receive 10% of any statutory penalties assessed, plus any attorney's fees and expenses in bringing the action." § 25.

20. The Act also requires an employer, within 30 days after the effective date of the Act, to post a notice of employee rights under the Act. § 10.

21. The Act defines "religious matters" as "matters relating to religious belief, affiliation, and practice and the decision to join or support any religious organization or association." § 10.

22. The Act defines "political matters" as "matters relating to elections for political office, political parties, proposals to change legislation, proposals to change regulations, proposals to change public policy, and the decision to join or support any political party or political, civic, community, fraternal, or labor organization." § 10.

23. The Act provides several exceptions.

24. Employers may communicate with their employees about religious and political matters, but only if such communication is "voluntary," § 35(2)—meaning that the action is not incentivized by a positive change in any employment

condition, including any compensation or benefit and that the action is not taken under threat of a negative change in any employment condition, § 10.

25. The Act also allows employers to communicate "information that is necessary for the employees to perform their required job duties" to employees. § 35(3).

26. The Act exempts certain employers that communicate about political matters: "political organization[s,] political party organization[s,] caucus organization[s,] candidate's political organization[s, or] not-for-profit organization[s] that [are] exempt from taxation under Section 501(c)(4), 501(c)(5), or 501(c)(6) of the Internal Revenue Code." § 35(6).

27. The Act does not, however, exempt 501(c)(3) organizations.

28. The Act also exempts the General Assembly and State or local legislative or regulatory bodies with respect to communications of the employer's proposals to change legislation, regulations, or public policy. § 35(7).

29. The Act also exempts religious organizations from the provisions of the Act with respect to communications of the employer's religious beliefs, practices, or tenets. § 35(7). The Act does not define "religious organization."

30. The Institute is a 501(c)(3) organization, and therefore not exempt.

31. In effect, the Act bans the Institute from communicating with its employees during mandatory meetings about "proposals to change legislation, proposals to change regulations, [and] proposals to change public policy"—even though creating such proposals is one of the principal purposes of the Institute.

32. The Institute is a research organization that publishes policy research on a variety of political topics, including the state budget, jobs, labor, pensions, education, and criminal justice.

33. The Institute holds mandatory staff meetings every week for all staff, with no exceptions made for job title or position.

34. The Institute also has regularly scheduled team meetings and holds strategy meetings scheduled as needed that are mandatory for certain staff.

35. The Institute holds two all-staff retreats each year, and all staff, regardless of position, are required to attend.

36. At the mandatory meetings and mandatory retreats, the Institute has discussed topics such as the Workers' Rights Amendment, the proposed real estate transfer tax in Chicago, and the Invest in Kids tax credit scholarships.

37. It is important for the functioning of the Institute to communicate about political matters—including discussions of any legislation that may be crafted by the General Assembly—with its employees and ensure that their employees listen to such communications. Often the most efficient way of doing so is by holding mandatory meetings.

38. The Institute believes it is important to discuss its work with all its employees, regardless of whether a specific employee is working on a specific topic. Such discussions improve staff morale and team cohesion, and enable staffers not working on a specific policy-related matter to express their ideas or new perspective on that matter.

39. The Institute plans to continue holding mandatory meetings and retreats in which changes to public policy and legislation are discussed.

Count I

The ban on employer speech to employees about "political matters" in P.A. 103-0722 violates the First Amendment's guarantee of freedom of speech.

40. The allegations contained in all preceding paragraphs are incorporated herein by reference.

41. "[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content." *Police Department of Chicago v. Mosley,* 408 U.S. 92, 95-96 (1972).

42. A law is content based if the law "'on its face' draws distinctions based on the message a speaker conveys." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015) (*quoting Sorrell v. IMS Health Inc.*, 564 U.S. 552, 563-64 (2011)).

43. "Content-based regulations are presumptively invalid" and thus subject to strict scrutiny analysis. *R.A.V. v. City of St. Paul,* 505 U.S. 377, 382 (1992); *United States v. Alvarez,* 567 U.S. 709, 717 (2012) (plurality opinion). Content-based restrictions on speech warrant such scrutiny because they "are especially likely to be improper attempts to value some forms of speech over others, [and] are particularly susceptible to being used by the government to distort public debate." *City of Ladue v. Gilleo*, 512 U.S. 43, 60 (1994) (O'Connor, J., concurring).

44. The Act is a content-based regulation because it regulates speech based on its content: an employer is prohibited from communicating political speech or

religious speech to its employees at mandatory meetings or by requiring the employees to listen to such speech.

45. To know whether an employer violates the Act, the government must discern the content of the employer's speech.

46. Defendants have no compelling governmental interest in prohibiting employers from communicating political or religious matters to employees.

47. The Act is not narrowly tailored to serve any purported compelling government interest.

48. And the Act is not the least restrictive means of achieving any purported compelling government interest.

49. The Act therefore violates the Institute's First Amendment rights and the Institute is entitled to injunctive relief because it is irreparably harmed and has no adequate remedy at law.

Prayer for Relief

WHEREFORE, Plaintiff respectfully request that this Court grant the following relief:

A. Enter a judgment declaring that P.A. 103-0722, which prohibits employers from speaking to employees about "political matters" at mandatory meetings, is a content-based restriction of employer's speech and violates the First Amendment to the United States Constitution, both on its face and as applied to Plaintiff Illinois Policy Institute.

B. Preliminarily and permanently enjoin Defendants from enforcing P.A. 103-0722;

C. Award Plaintiff its reasonable costs, expenses, and attorneys' fees pursuant to any applicable law; and

D. Award Plaintiff any additional relief the Court deems just and proper.

Dated: August 8, 2024

Respectfully submitted,

Illinois Policy Institute

By: /s/ Jacob Huebert
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