

## 1 SENATE BILL NO. 380

2 INTRODUCED BY K. GILLAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EMPLOYMENT LAW TO PREVENT DISCRIMINATION  
5 AGAINST EMPLOYEES WHO DECLINE TO ATTEND OR PARTICIPATE IN CERTAIN RELIGIOUS OR  
6 POLITICAL ACTIVITIES OR COMMUNICATIONS; AND PROVIDING AN APPLICABILITY DATE."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9

10 NEW SECTION. **Section 1. Legislative findings and purpose.** The legislature finds that the general  
11 welfare of the state is substantially and adversely affected when discrimination by an employer, constituent group,  
12 employment agency, or licensing agency, based solely on a properly qualified individual declining to attend a  
13 meeting or participate in any communication about religious matters or political matters, deprives that individual  
14 of the earnings that are necessary to maintain a just and decent standard of living. The purpose of [sections 1  
15 through 4] is to protect the rights of all individuals to obtain gainful employment and enjoy work-related privileges  
16 free from discrimination.

17

18 NEW SECTION. **Section 2. Definitions.** For the purposes of [sections 1 through 4], the following  
19 definitions apply:

20 (1) "Constituent group" includes a civic association, a community group, a social club, a fraternal society,  
21 a mutual benefit alliance, or a labor organization.

22 (2) "Employer" has the meaning provided in 49-2-101.

23 (3) "Person" means an individual, a partnership, an association, a corporation, a business trust, a legal  
24 representative, or any organized group of persons.

25 (4) "Political matters" means political party affiliation, a political campaign, an attempt to influence  
26 legislation, or the decision to join or not to join or to support or not to support any lawful political group, constituent  
27 group, or political or constituent group activity.

28 (5) "Religious matters" means religious affiliation or the decision to join or not to join or to support or not  
29 to support a bona fide religious association.

30

1            **NEW SECTION. Section 3. Prohibited discriminatory actions -- exceptions.** (1) Subject to the  
2 exceptions in subsections (2) and (3) and in addition to the provisions of 49-2-303, an employer may not:

3            (a) discharge, refuse to hire, or otherwise discriminate against any employee regarding terms and  
4 conditions of employment because the employee declines to attend an employer-sponsored meeting or  
5 participate in any communication primarily related to the employer's opinion about religious matters or political  
6 matters regardless of whether the meeting or communication is with the employer or an agent, representative,  
7 or designee of the employer; or

8            (b) threaten to discharge or otherwise coerce or discriminate against an employee as a means of  
9 requiring the employee to attend a meeting or participate in a communication as described in subsection (1)(a).

10           (2) The provisions of subsection (1) do not apply if:

11           (a) (i) the employer is a religious association not organized for profit or an organization or corporation  
12 that is primarily owned and operated by a religious association; and

13           (ii) the primary purpose of the meeting or communication is to communicate the employer's religious  
14 beliefs, tenets, or practices;

15           (b) the meeting or communication is reasonably necessary to the performance of actions by the  
16 employers that may be lawfully required by the employer and are related to the normal operation of the  
17 employer's business or enterprise; or

18           (c) the primary purpose of the meeting or communication is to provide information about religious matters  
19 or political matters that the employer is required by law to communicate and no information is communicated  
20 about those matters beyond what is legally required.

21           (3) This section does not limit any of the following:

22           (a) the right of an employer's executive, managerial, or administrative personnel to discuss issues  
23 relating to the operation of the employer's program, business, or enterprise, including issues arising under this  
24 section; or

25           (b) the right of an employer to offer meetings or other communications about religious matters or political  
26 matters for which attendance or participation is strictly voluntary.

27

28           **NEW SECTION. Section 4. Civil action -- injunction.** (1) An employee may bring a civil action in the  
29 district court of the county in which a violation of [section 3(1)] is alleged to have occurred or in which the  
30 employer has its principal office.

- 1 (2) If the employee prevails in the civil action, the court may award:
- 2 (a) injunctive relief by ordering a rehiring or reinstatement to the employee's former position or an
- 3 equivalent position with back pay and the restoration of any other terms and conditions of employment to which
- 4 the employee otherwise would have been eligible if the violation had not occurred;
- 5 (b) damages for any reasonably foreseeable losses sustained by an employee as a result of the violation;
- 6 (c) any other appropriate relief considered necessary by the court to make the employee whole and to
- 7 restrain further violations of [section 3(1)].
- 8 (3) This section may not be construed to limit an employee's right to bring any other cause of action
- 9 permitted by law against an employer related to employment discrimination or to diminish or impair the rights of
- 10 a person under an employment contract.

11

12 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] is intended to be codified

13 as an integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [sections 1 through 4].

14

15 **NEW SECTION. Section 6. Applicability.** (1) Except as provided in subsection (2), [this act] applies

16 to any employee on or after October 1, 2011.

17 (2) [This act] applies to an employee who is covered by a collective bargaining agreement that contains

18 provisions inconsistent with [this act] on the day on which the collective bargaining agreement expires or is

19 extended, modified, or renewed, whichever occurs first.

20 - END -