

ASSEMBLY BILL NO. 433—ASSEMBLYMAN SEGERBLOM

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Expands prohibition on employers taking certain actions to prohibit, punish or prevent employees from engaging in politics or becoming candidates for public office with certain exceptions. (BDR 53-63)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment practices; making it unlawful for public employers to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office with certain exceptions; prohibiting any employer from taking any adverse employment action against an employee because the employee has become a candidate for any public office with certain exceptions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law makes it unlawful for a private employer to make rules or
2 regulations that prohibit or prevent an employee from engaging in politics or
3 becoming a candidate for public office. (NRS 613.040) A violation of that
4 prohibition by an employer is punishable by a fine of not more than \$5,000. In
5 addition, the costs of the proceeding to recover the fine are recoverable by the
6 Attorney General. (NRS 613.050) The employee is also authorized to bring a
7 separate lawsuit for damages for such a violation. (NRS 613.070) This bill makes it
8 unlawful for public employers and labor organizations, in addition to private
9 employers, to engage in such unlawful activity and also makes it unlawful for any
10 public or private employer or labor organization to take any adverse employment
11 action against an employee as a result of the employee becoming a candidate for
12 public office. With respect to public employees, this bill makes an exception where
13 necessary to meet requirements of federal law, such as the Hatch Act, 5 U.S.C. §§
14 1501-1508, which imposes restrictions on certain political activities by state and
15 local governmental employees.



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WHEREAS, Every eligible person has a right to participate in the functions of government; and

WHEREAS, Participating as a candidate in an election for public office and participating in politics are at the core of government; and

WHEREAS, It is the policy of the State of Nevada to encourage participation in government; and

WHEREAS, Anything which tends to prevent a person from so participating is contrary to the policy of this State; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 613.040 is hereby amended to read as follows:
613.040 ~~HH~~

1. Except as necessary to meet requirements of federal law as it pertains to a particular public employee, it shall be unlawful for any person ~~[, firm or corporation doing business or employing labor in the State of Nevada to]~~ who employs or has under his or her direction and control any person for wages or under a contract of hire and for any labor organization referring a person to an employer for employment:

(a) To make any rule or regulation prohibiting or preventing any employee from engaging in politics or becoming a candidate for any public office in this state.

(b) To take any adverse employment action against an employee who becomes a candidate for any public office in this State because the employee became a candidate for public office.

2. As used in this section:

(a) "Adverse employment action":

(1) Includes, without limitation, requiring an employee to take an unpaid leave of absence during any period of his or her campaign for public office.

(2) Does not include, without limitation:

(I) Any disciplinary or other personnel action, including, without limitation, termination of employment, taken for reasons other than those prohibited pursuant to subsection 1; or

(II) Reassignment of an employee to prevent or eliminate any conflict of interest, as reasonably determined by the employer.

(b) "Candidate" has the meaning ascribed to it in NRS 294A.005.

(c) "Person" means:

(1) A natural person;



1 (2) Any form of business or social organization and any
2 other nongovernmental legal entity, including, without limitation,
3 a corporation, partnership, association, trust or agency or
4 unincorporated organization; or

5 (3) A government, governmental agency or political
6 subdivision of a government.

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