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Chapter 287: Religious Accommodation for Employees

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Chapter 287: Religious Accommodation for Employees

David Vidal

Code Sections Affected

Government Code §§ 12926, 12940 (amended).
AB 1964 (Yamada); 2012 STAT. Ch. 287.

I. INTRODUCTION

In October 2011, a Sikh man settled a religious discrimination lawsuit he had brought against the California Department of Corrections and Rehabilitation (CDCR) for \$295,000.¹ The plaintiff, Trilochan Oberoi, alleged that the CDCR denied him employment because he would not shave his religiously mandated beard.² Oberoi successfully completed all requirements for employment except for a “respirator fit-test,” which required employees to be clean-shaven in order to wear emergency gas masks.³ A twenty-six year veteran of the Indian Navy, Oberoi had previously worn gas masks effectively by rolling up his beard.⁴ The CDCR, however, continued to deny Oberoi religious accommodation despite numerous requests and a 2008 State Personnel Board ruling that the CDCR should attempt to make accommodations.⁵

Reports indicate that religious discrimination in the workplace is rising in the United States.⁶ Sikhs, Muslims, and Jews are particularly vulnerable due to obvious dress or grooming practices that identify their religion.⁷ Chapter 287 amends the Fair Employment and Housing Act (FEHA) by requiring employers to accommodate a broad definition of religious dress and grooming practices

1. Brian Sumers, *Sikh Wins Settlement with Prisons over Beard*, S.F. DAILY J., Oct. 27, 2011, at 4.

2. Amended Complaint at 5–9, *Oberoi v. Dep’t of Corrections and Rehabilitation*, No. 34-2009-00054595 (Sacramento Super. Ct., filed July 31, 2009) (on file with the *McGeorge Law Review*).

3. *Id.* at 5; *see also* SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 6 (June 18, 2012) (describing the prison policy that employees should be clean shaven in order for the gas mask to have a tight seal around the mouth).

4. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 6 (June 18, 2012).

5. Amended Complaint, *supra* note 2, at 5–7; SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 6–7 (June 18, 2012); Sumers, *supra* note 1.

6. *See* SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 5 (June 18, 2012) (reporting that in 2011, religious-based claims submitted to the Equal Opportunity Employment Commission rose over 9.5 percent).

7. *Id.* at 6; *see also* *Religious Discrimination*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <http://www.eeoc.gov/laws/types/religion.cfm> (last visited Sept. 12, 2012) (on file with the *McGeorge Law Review*) (describing obvious dress and grooming practices to include “wearing particular head coverings or other religious dress (such as a Jewish yarmulke or a Muslim headscarf), or wearing certain hairstyles or facial hair (such as Rastafarian dreadlocks or Sikh uncut hair and beard)”).

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without segregating employees.⁸ Chapter 287 also clarifies the California standard of reasonable accommodation under FEHA.⁹

II. LEGAL BACKGROUND

California's FEHA has a higher standard for religious accommodation in the workplace than the federal standard under Title VII of the Civil Rights Act of 1964, but FEHA is also less explicit in its range of protection.¹⁰ This section discusses the similarities, differences, and confusion between the respective protection and religious practices under the two laws.¹¹

A. Federal Religious Protection

Title VII of the Civil Rights Act of 1964 (Title VII) protects employees from religious discrimination.¹² Under Title VII, an employer must reasonably accommodate an employee's religious practices unless such accommodation would be an undue hardship on the employer's business.¹³ The United States Equal Employment Opportunity Commission (EEOC) develops and enforces the "policies defining the nature of employment discrimination."¹⁴ The EEOC includes religious dress and grooming practices among the religious practices an employer must reasonably accommodate unless it would be an undue hardship on the employer's business.¹⁵ The United States Supreme Court has interpreted

8. CAL. GOV'T CODE § 12940(p) (amended by Chapter 287); *see also* Jack Katzanek, *Bill Protecting Religious Garb Passes Assembly*, PRESS-ENTERPRISE (May 29, 2012, 4:22 PM), <http://www.pe.com/business/business-headlines/20120529-workplace-bill-protecting-religious-garb-passes-assembly.ece> (on file with the *McGeorge Law Review*) (noting that the bill "was supported by a broad collation of religious affiliations"); SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 2 (June 18, 2012) (noting that religious dress and grooming practice "shall be broadly construed" in the bill).

9. *Id.* § 12940(l)(1) (amended by Chapter 287); *see also* ASSEMBLY COMMITTEE ON THE JUDICIARY, COMMITTEE ANALYSIS OF AB 1964, at 4 (Apr. 24, 2012) (describing the difference between the federal and state standards of religious accommodation).

10. 42 U.S.C. § 2000e(j) (2006); GOV'T §§ 12926, 12940 (West Supp. 2012). *Compare* ASSEMBLY COMMITTEE ON THE JUDICIARY, COMMITTEE ANALYSIS OF AB 1964, at 4 (Apr. 24, 2012) (describing how the FEHA requirement is more protective than federal law), *with id.* at 3 (noting that FEHA has not recognized clothing and hairstyles as religious observance in the same way as the EEOC).

11. *See* ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8 (Apr. 18, 2012) (identifying the Sikh Coalition's argument for clarity in FEHA).

12. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 3–4 (June 18, 2012); *see also* 42 U.S.C. § 2000e(j) (defining "religion" as "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business").

13. 42 U.S.C. § 2000e; SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 3–4 (June 18, 2012).

14. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 4 (June 18, 2012).

15. *Id.*

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“undue hardship” as anything more than *de minimus* costs to the employer, a relatively low standard.¹⁶ One federal court determined that the Supreme Court “strongly suggests that the undue hardship test is not a difficult threshold to pass.”¹⁷ The Third Circuit, for example, found that a headscarf worn by a female police officer as a part of her Muslim faith was an undue hardship to accommodate because it violated the dress code of the police department.¹⁸ In addition, the First Circuit held that non-economic costs such as harm to public image could also meet the *de minimis* standard of undue hardship.¹⁹

The Sikh Coalition,²⁰ an organization advocating for civil rights, also expresses concern over the federal interpretation of what constitutes a “reasonable accommodation.”²¹ Some federal courts interpret “reasonable accommodation” in a way that allows employers to segregate visibly religious employees.²² In particular, *Birdi v. UAL Corp.* held that placing the Sikh plaintiff away from the view of customers was a “reasonable accommodation.”²³

B. California Religious Protection

California’s FEHA prohibits discrimination against religious creed.²⁴ The definition of “religious creed” includes “all aspects of religious belief, observance, and practice,” but does not specifically include religious dress or grooming practices like the EEOC at the federal level.²⁵

16. ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 7 (Apr. 18, 2012); *see also, e.g.*, *Trans World Airlines v. Hardinson*, 432 U.S. 63, 84 (1977) (holding that additional costs to give an employee Saturday off for the religious Sabbath was an undue hardship on the employer).

17. *United States v. Bd. of Educ.*, 911 F.2d 882, 890 (3d Cir. 1990).

18. *Webb v. City of Phila.*, 562 F.3d 256, 261–62 (3d Cir. 2009); *see also* SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 4 (June 18, 2012) (discussing *Webb*).

19. *See Cloutier v. Costco Wholesale Corp.*, 390 F.3d 126, 136 (1st Cir. 2004) (holding that an employee’s facial jewelry contradicts the public image that Costco aims to cultivate).

20. *See Mission and History*, SIKH COAL., <http://www.sikhcoalition.org/about-us/mission-a-history> (last visited Sept. 12, 2012) (on file with the *McGeorge Law Review*) (describing the mission and history of the Sikh Coalition).

21. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 7 (June 18, 2012).

22. *Id.*

23. *Birdi v. UAL Corp.*, No. 99 C 5576, 2002 WL 471999 (N.D. Ill. Mar. 26, 2002) (holding that the employer made a reasonable accommodation by offering the plaintiff six alternative positions that did not involve face-to-face contact with customers after the plaintiff was terminated from his position for wearing a religiously mandated turban against the company uniform policy). The court declared that it was unreasonable for the plaintiff to require “face-to-face customer contact” as a reasonable accommodation because “Title VII does not require the employer to provide the accommodation that the employee desires; any reasonable accommodation is sufficient.” *Id.* at *1 (quoting *EEOC v. W.W. Grainger, Inc.*, 1997 WL 399635 (N.D. Ill. 1997) (citing *Aonsonia Bd. of Educ. v. Philbrook*, 479 U.S. 60, 68 (1986))).

24. CAL. GOV’T CODE §§ 12926, 12940 (West Supp. 2012).

25. *See id.* § 12926(p) (defining “religious creed” as “‘religion,’ ‘religious observance,’ ‘religious belief,’ and ‘creed’ include all aspects of religious belief, observance, and practice”); *see also Religious Discrimination*, *supra* note 7 (including types of religious dress and grooming practices in their definition).

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Similar to the federal law, California’s FEHA also requires employers to “reasonably accommodate the religious belief or observance” unless it creates an “undue hardship on the conduct of the business of the employer.”²⁶ Despite the language being similar to that in Title VII, the term “undue hardship” under FEHA has been interpreted using higher standards and involves consideration of several factors, including “significant difficulty or expense.”²⁷ However, there is confusion over whether the FEHA definition of “undue hardship” or the federal *de minimis* standard of “undue hardship” applies in California.²⁸ While the FEHA definition of “undue hardship” applies to religion, courts have centered the higher standard of “undue hardship” on persons with disabilities.²⁹ Furthermore, California courts have referred to the federal interpretation rather than using the FEHA definition.³⁰ *Soldinger v. Northwest Airlines*, for example, referred to the *de minimis* standard in dicta, confusing it with the correct definition of “undue hardship” in California.³¹

III. CHAPTER 287

In California, it is unlawful for an employer to refuse to hire, bar from training, or discriminate against persons on the basis of “religious creed.”³² Chapter 287 clarifies the definition of “religious creed” to conform to the federal provisions by including a broad range of “religious dress and grooming practices.”³³ Religious dress includes, but is not limited to, clothing, jewelry, or face coverings that are in observance of a religious creed.³⁴ Religious grooming

26. GOV’T § 12940(l); SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 2 (June 18, 2012).

27. GOV’T § 12926(t).

“Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) The nature and cost of the accommodation needed. (2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility. (3) The overall financial resources of the covered entity with respect to the number of employees, and the number, type, and location of its facilities. (4) The type of operations, including the composition, structure, and functions of the workforce of the entity. (5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

Id.

28. ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8 (Apr. 18, 2012).

29. ASSEMBLY COMMITTEE ON THE JUDICIARY, COMMITTEE ANALYSIS OF AB 1964, at 4 (Apr. 24, 2012).

30. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 5 (June 18, 2012).

31. 51 Cal. App. 4th 345, 371, 58 Cal. Rptr. 2d 747 (2d Dist. 1997); ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8 (Apr. 18, 2012).

32. GOV’T § 12940(a) (amended by Chapter 287).

33. *Id.* § 12926(p) (amended by Chapter 287).

34. *Id.*

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practice includes “all forms of head, facial, and body hair that are part of the observance by an individual of his or her religious creed.”³⁵

Employers in California must accommodate religious observances unless the accommodation imposes an “undue hardship” on the business.³⁶ Chapter 287 explicitly defines “undue hardship” using the FEHA definition, eliminating erroneous application of the federal *de minimus* definition in religious discrimination cases.³⁷

Chapter 287 also clarifies that religious accommodation is unreasonable if it “requires segregation of the individual from other employees or the public.”³⁸ Furthermore, Chapter 287 does not require a religious accommodation if the accommodation is a violation of civil rights or discrimination laws.³⁹

IV. ANALYSIS

Chapter 287 clarifies that, like the EEOC, California law broadly protects “religious dress practice.”⁴⁰ It also clarifies when federal judicial interpretations of religious discrimination apply to California law.⁴¹ As a result, Chapter 287 establishes that California law provides more religious protection in the workplace than federal law.⁴²

A. *The Need for Chapter 287*

At an April 2012 press conference, Assembly Member Mariko Yamada and members of the interfaith community announced the need to clarify FEHA.⁴³ According to Yamada, the need for change stems from evolving demographics that have led to increased religious discrimination cases across the country.⁴⁴ One survey, for example, reported that twelve percent of Sikhs in San Francisco experienced employment discrimination based on their religion.⁴⁵ In 2011, the EEOC reported an almost ten percent increase in employer religious

35. *Id.*

36. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 2 (June 18, 2012).

37. GOV'T § 12940(l)(1) (amended by Chapter 287) (clarifying that the FEHA definition of undue hardship applies to religious protection); *id.* § 12926(t) (amended by Chapter 287).

38. *Id.* § 12940(l)(2) (amended by Chapter 287).

39. *Id.* § 12940(l)(3) (amended by Chapter 287).

40. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 1–2 (June 18, 2012).

41. *Id.*

42. ASSEMBLY COMMITTEE ON THE JUDICIARY, COMMITTEE ANALYSIS OF AB 1964, at 4 (Apr. 24, 2012).

43. Robin Miller, *Yamada Pushes for Religious Dress Protections*, REPORTER (Apr. 14, 2012), http://www.thereporter.com/faith/ci_20396255/yamada-pushes-religious-dress-protections (on file with the *McGeorge Law Review*).

44. *Id.*

45. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 6 (June 18, 2012).

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discrimination cases in the United States.⁴⁶ According to Yamada, five-hundred religious discrimination cases in 2011 involved California employers.⁴⁷

B. California as Compared to Federal Religious Protection

Chapter 287 clarifies that California provides more religious protection in the workplace than does federal law.⁴⁸ Federal law requires an employer to show that accommodating an employee's religious dress would be more than a *de minimus* hardship in order to be relieved from accommodation.⁴⁹ Chapter 287 eliminates confusion between California and federal law by clarifying that FEHA requires employers to show a "significant effect."⁵⁰ The "significant effect" standard considers factors such as costs, resources, facilities, and the type of business.⁵¹ By using the higher significant effect standard, California employees are less likely to have to choose between their religious expression and their jobs.⁵²

In addition, Chapter 287 distinguishes itself from the federal interpretation of "reasonable accommodation" illustrated in *Birdi* because of arguments that the federal interpretation may allow for the "segregation of visibly religious employees."⁵³ Chapter 287 responds to *Birdi* by establishing that accommodation is not reasonable if it segregates the employee from the public.⁵⁴ Explicitly prohibiting segregation is consistent with Title VII and prevents employees from having to choose between their religious attire and segregation.⁵⁵

46. *Id.* at 5.

47. Miller, *supra* note 43.

48. ASSEMBLY COMMITTEE ON THE JUDICIARY, COMMITTEE ANALYSIS OF AB 1964, at 4 (Apr. 24, 2012).

49. ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8 (Apr. 18, 2012).

50. See CAL. GOV'T CODE § 12926(t) (amended by Chapter 287) (specifying that "undue hardship" means "significant difficulty or expense").

51. *Id.*

52. Cf. Keith Blair, *Better Disabled than Devout? Why Title VII Has Failed to Provide Adequate Accommodations Against Workplace Religious Discrimination*, 63 ARK. L. REV. 515, 532, 556 (2010) (arguing that the Title VII standard should be more like the Americans with Disabilities Act standard, which requires a showing of "significant difficulty or expense," because it would allow employees to "practice their faith without the threat of losing their jobs because of a conflict with employment requirements").

53. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 7 (June 18, 2012).

54. GOV'T § 12940(I)(2) (amended by Chapter 287); SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 7 (June 18, 2012).

55. *But see* Dawinder Sidhu, *Out of Sight, Out of Legal Recourse: Interpreting and Revising Title VII to Prohibit Workplace Segregation Based on Religion*, 36 N.Y.U. REV. L. & SOC. CHANGE 103, 105–06 (2012) (arguing that the federal courts' interpretation of undue hardship for purposes of religious accommodation under Title VII is "inconsistent with the law" and should not allow employers to segregate employees due to "religion-based appearance"); *see also* 42 U.S.C. § 2000e-2(a) (2006) ("It shall be an unlawful employment practice for an employer . . . to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.").

C. Anticipated Effect on Business

Chapter 287, sponsored by the Sikh Coalition, faced no official opposition.⁵⁶ Assembly Member Tim Donnelly, however, voted against Chapter 287 because he believes it will cause an increased burden on employers and unnecessary lawsuits.⁵⁷ Congress has echoed this concern through the Workplace Religious Freedom Act (WRFA), “an on-again off-again bill” that makes changes to Title VII similar to those made by Chapter 287.⁵⁸ In 2010, for example, Michael Eastman of the U.S. Chamber of Commerce referred to the WRFA saying “[w]e are not in the habit of supporting bills that make it easier to sue our members.”⁵⁹ Rachel Linn, a spokeswoman for Assembly Member Yamada, however, believes that by clarifying the law, Chapter 287 could prevent lawsuits.⁶⁰ This view also has support by members of the U.S. Congress.⁶¹ Supporters of the 2007 version of the WRFA claimed the Act would reduce litigation because the law will encourage “employers and employees to work out [accommodation] arrangements amicably.”⁶²

It is unclear whether Chapter 287 will increase the number of religious-based lawsuits in California.⁶³ Similar statutes already passed in New Jersey, New York, and Oregon.⁶⁴ EEOC statistics of religious-based charges in New Jersey, New York, and Oregon appear to be similar to all other states, but the specific effect of the statutes have not been studied.⁶⁵ Two years after New York passed a

56. ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8–9 (Apr. 18, 2012).

57. Katzanek, *supra* note 8.

58. See Lauren Bohn, *Workplace Religious Freedom Bill Finds Revived Interest*, HUFFINGTON POST (May 25, 2011), http://www.huffingtonpost.com/2010/05/03/workplace-religious-freed_n_561560.html (on file with the *McGeorge Law Review*) (describing the workplace religious freedom debate on Capitol Hill).

59. *Id.*

60. Katzanek, *supra* note 8.

61. *Workplace Religious Freedom Act, Some Questions and Answers*, INST. FOR PUB. AFFAIRS (Jan. 3, 2007, 9:05 PM), <http://advocacy.ou.org/2007/workplace-religious-freedom-act-some-questions-and-answers/> (on file with the *McGeorge Law Review*).

62. See *id.* (describing that the WRFA is not expected to increase litigation because, before the law was a *de minimis* standard, “the law prodded employers and employees to work out these arrangements amicably”).

63. See Eliot Spitzer, *Defend the Civil Right to Freedom of Religion for America’s Workers*, FORWARD.COM (June 25, 2004), <http://forward.com/articles/5867/defend-the-civil-right-to-freedom-of-religion-for/> (on file with the *McGeorge Law Review*) (stating that there was not increased litigation after New York passed a similar statute).

64. See N.J. REV. STAT. § 10:5-12(q)(3) (West Supp. 2011) (stating that “undue hardship means an accommodation requiring unreasonable expense or difficulty”); N.Y. EXEC. LAW § 296(2)(d)(iii) (McKinney Supp. 2012) (defining “undue burden” as “significant difficulty or expense”); OR. REV. STAT. § 659A.033(4) (2011) (defining “undue hardship” as “significant difficulty or expense”).

65. *EEOC Charge Receipts by State (Includes U.S. Territories) and Basis for 2011*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, http://www1.eeoc.gov/eeoc/statistics/enforcement/state_11.cfm (last visited Sept. 12, 2012) (on file with the *McGeorge Law Review*). 2011 EEOC data indicates that New York, New Jersey, and Oregon do not have a higher percentage of religious based EEOC charges than other states. *Id.* In New York, 5.9 percent of EEOC charges filed are religious based—ranking the tenth highest percentage of religious-based

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bill similar to Chapter 287, Eliot Spitzer, the New York Attorney General, stated that the legislation did not increase litigation and was not “burdensome on business.”⁶⁶ Instead, Spitzer claimed, it “strikes the correct balance between accommodating individual liberty and the needs of businesses and the delivery of services.”⁶⁷ On the other hand, even some supporters of the WRFA concede that raising the *de minimis* standard may “complicate things for employers.”⁶⁸ Supporters argue, however, that unknown or burdensome effects on employers do not outweigh the benefits of religious freedom in the workplace.⁶⁹ Congress is likely to track the effects of Chapter 287 and analyze the costs and benefits in its continuing efforts to pass the WRFA.⁷⁰

V. CONCLUSION

Chapter 287’s author intends the law to clarify and correct deficiencies in California’s FEHA.⁷¹ It distinguishes California’s interpretation of “undue hardship” from that under federal law and specifies that an employer must prove “significant effects” to be relieved from accommodating an employee.⁷² In addition, Chapter 287 clarifies that segregation is not a reasonable accommodation.⁷³ FEHA is a part of California public policy to protect the right of all people to be employed without discrimination.⁷⁴ Assembly Member Mariko Yamada, the bill author, wrote that Chapter 287 both “ensures equal employment opportunity” and “is necessary to preserve the integrity of FEHA with respect to religious accommodations.”⁷⁵

charges. *Id.* In New Jersey, 4.8 percent of EEOC charges filed are religious based—ranking nineteenth out of all states. *Id.* In Oregon, only 2.3 percent of EEOC charges filed are religious based—ranking forty-sixth out of all states. *Id.*

66. Spitzer, *supra* note 63.

67. *Id.*

68. Bohn, *supra* note 58.

69. *See* Blair, *supra* note 52, at 556 (“While the cost to employers would necessarily increase under the ADA model, that cost is outweighed by the benefits of employees being able to practice their faith without the threat of losing their jobs because of a conflict with employment requirements.”).

70. *See* Bohn, *supra* note 58 (describing the workplace religious freedom debate on Capitol Hill).

71. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 3 (June 18, 2012).

72. *Id.*

73. ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT, COMMITTEE ANALYSIS OF AB 1964, at 8 (Apr. 18, 2012).

74. CAL. GOV’T CODE §§ 12926, 12940 (West Supp. 2012).

75. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 1964, at 3 (June 18, 2012).