

By: Krause, et al.

H.B. No. 3172

Substitute the following for H.B. No. 3172:

By: Phelan

C.S.H.B. No. 3172

A BILL TO BE ENTITLED

AN ACT

relating to the protection of membership in and support to religious organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, Government Code, is amended by adding Subtitle H to read as follows:

SUBTITLE H. PROHIBITED ADVERSE ACTIONS BY GOVERNMENT

CHAPTER 2400. PROTECTION OF MEMBERSHIP IN AND SUPPORT TO RELIGIOUS ORGANIZATIONS

Sec. 2400.001. DEFINITIONS. In this chapter:

(1) "Adverse action" means any action taken by a governmental entity to:

(A) withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;

(B) withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;

(C) alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;

(D) disallow a tax deduction for any charitable

1 contribution made to or by a person;

2 (E) deny admission to, equal treatment in, or  
3 eligibility for a degree from an educational program or institution  
4 to a person; or

5 (F) withhold, reduce, exclude, terminate, or  
6 otherwise deny access to a property, educational institution,  
7 speech forum, or charitable fund-raising campaign from or to a  
8 person.

9 (2) "Benefit program" means any program administered  
10 or funded by a governmental entity or federal agency that provides  
11 assistance in the form of payments, grants, loans, or loan  
12 guarantees.

13 (3) "Governmental entity" means:

14 (A) this state;

15 (B) a board, commission, council, department, or  
16 other agency in the executive branch of state government that is  
17 created by the state constitution or a statute, including an  
18 institution of higher education as defined by Section 61.003,  
19 Education Code;

20 (C) the legislature or a legislative agency;

21 (D) a state judicial agency or the State Bar of  
22 Texas;

23 (E) a political subdivision of this state,  
24 including a county, municipality, or special district or authority;  
25 or

26 (F) an officer, employee, or agent of an entity  
27 described by Paragraphs (A)-(E).

1           (4) "Person" has the meaning assigned by Section  
2 311.005, except the term does not include:

3                   (A) an employee of a governmental entity acting  
4 within the employee's scope of employment;

5                   (B) a contractor of a governmental entity acting  
6 within the scope of the contract; or

7                   (C) an individual or a medical or residential  
8 custodial health care facility while the individual or facility is  
9 providing medically necessary services to prevent another  
10 individual's death or imminent serious physical injury.

11           Sec. 2400.002. ADVERSE ACTION PROHIBITED. Notwithstanding  
12 any other law, a governmental entity may not take any adverse action  
13 against any person based wholly or partly on the person's  
14 membership in, affiliation with, or contribution, donation, or  
15 other support provided to a religious organization.

16           Sec. 2400.003. RELIEF AVAILABLE. (a) A person may assert  
17 an actual or threatened violation of Section 2400.002 as a claim or  
18 defense in a judicial or administrative proceeding and obtain:

19                   (1) injunctive relief;

20                   (2) declaratory relief; and

21                   (3) court costs and reasonable attorney's fees.

22           (b) Notwithstanding any other law, a person may commence an  
23 action under this section and relief may be granted regardless of  
24 whether the person has sought or exhausted available administrative  
25 remedies.

26           Sec. 2400.004. IMMUNITY WAIVED. A person who alleges a  
27 violation of Section 2400.002 may sue the governmental entity for

1 the relief provided under Section 2400.003. Sovereign or  
2 governmental immunity, as applicable, is waived and abolished to  
3 the extent of liability for that relief.

4 Sec. 2400.005. ATTORNEY GENERAL ACTION; INTERVENTION IN  
5 PROCEEDING. (a) The attorney general may bring an action for  
6 injunctive or declaratory relief against a governmental entity or  
7 an officer or employee of a governmental entity to enforce  
8 compliance with this chapter.

9 (b) This section may not be construed to deny, impair, or  
10 otherwise affect any authority of the attorney general or a  
11 governmental entity acting under other law to institute or  
12 intervene in a proceeding.

13 (c) The attorney general may not recover expenses incurred  
14 in bringing, instituting, or intervening in an action under this  
15 section.

16 Sec. 2400.006. INTERPRETATION. (a) This chapter may not be  
17 construed to preempt a state or federal law that is equally or more  
18 protective of the free exercise of religious beliefs or to narrow  
19 the meaning or application of a state or federal law protecting the  
20 free exercise of religious beliefs.

21 (b) This chapter may not be construed to prevent a  
22 governmental entity from providing, either directly or through a  
23 person who is not seeking protection under this chapter, any  
24 benefit or service authorized under state or federal law.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2019.