

By: Hughes, et al.
(Krause, Sanford, Phelan, Oliverson, et al.)

S.B. No. 1978

A BILL TO BE ENTITLED

AN ACT

relating to the protection of membership in, affiliation with, and support provided 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 (5) "Religious organization" means an organization
12 that is a religious organization under Section 110.011(b), Civil
13 Practices and Remedies Code.

14 Sec. 2400.0015. APPLICABILITY. This chapter does not apply
15 to an investment prohibited under Chapter 808 or a contract
16 prohibited under Chapter 2270, as added by Chapter 1 (H.B. 89), Acts
17 of the 85th Legislature, Regular Session, 2017.

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

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

26 (1) injunctive relief;

27 (2) declaratory relief; and

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

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

6 Sec. 2400.004. IMMUNITY WAIVED. A person who alleges a
7 violation of Section 2400.002 may sue the governmental entity for
8 the relief provided under Section 2400.003. Sovereign or
9 governmental immunity, as applicable, is waived and abolished to
10 the extent of liability for that relief.

11 Sec. 2400.005. ATTORNEY GENERAL ACTION; INTERVENTION IN
12 PROCEEDING. (a) The attorney general may bring an action for
13 injunctive or declaratory relief against a governmental entity or
14 an officer or employee of a governmental entity to enforce
15 compliance with this chapter.

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

20 (c) The attorney general may not recover expenses incurred
21 in bringing, instituting, or intervening in an action under this
22 section.

23 Sec. 2400.006. INTERPRETATION. (a) This chapter may not
24 be construed to preempt a state or federal law that is equally or
25 more protective of the free exercise of religious beliefs or to
26 narrow the meaning or application of a state or federal law
27 protecting the free exercise of religious beliefs.

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

5 SECTION 2. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2019.