

Senate Bill 1028

Sponsored by Senator G GEORGE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits public body from burdening person's free exercise of religion even if burden results from application of rule of general applicability.

Allows public body to burden person's free exercise of religion if public body demonstrates by clear and convincing evidence that application of burden is essential to further compelling government interest and is least restrictive means of furthering that compelling government interest.

A BILL FOR AN ACT

1
2 Relating to the free exercise of religion.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Burden" means to inhibit or curtail a religiously motivated practice.**

6 (b) **"Public body" has the meaning given that term in ORS 174.109.**

7 (2) **Except as provided in subsection (3) of this section, a public body may not burden a**
8 **person's free exercise of religion under sections 2 and 3, Article I of the Oregon Constitution,**
9 **or under the First Amendment to the United States Constitution, even if the burden results**
10 **from the application of a rule of general applicability.**

11 (3) **A public body may burden a person's free exercise of religion under sections 2 and 3,**
12 **Article I of the Oregon Constitution, or under the First Amendment to the United States**
13 **Constitution, if the public body demonstrates by clear and convincing evidence that applica-**
14 **tion of the burden to the person is:**

15 (a) **Essential to further a compelling government interest; and**

16 (b) **The least restrictive means of furthering that compelling government interest.**

17 (4) **A public body has the burden of going forward and the burden of persuasion with re-**
18 **spect to any claim that the actions of the public body are subject to the exception provided**
19 **by subsection (3) of this section.**

20 (5) **Nothing in this section shall be construed to:**

21 (a) **Authorize any public body to burden any religious belief; or**

22 (b) **Affect, interpret or in any way address those portions of Article I of the Oregon**
23 **Constitution, or the First Amendment to the United States Constitution, that prohibit laws**
24 **respecting the establishment of religion.**

25 (6) **Granting government funds, to the extent permissible under section 5, Article I of the**
26 **Oregon Constitution, does not constitute a violation of this section. A denial of government**
27 **funds may constitute a violation of this section.**

28 (7) **A violation of this section may be asserted as a claim or defense in any judicial or**
29 **administrative proceeding. A person whose free exercise of religion has been burdened by a**
30 **violation of this section may obtain declaratory relief and compensatory damages. A person**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **who prevails in any proceeding to enforce this section against a public body may recover**
2 **reasonable attorney fees. Attorney fees under this subsection may not be awarded in any**
3 **criminal prosecutions.**

4 **(8) A court shall award costs to a public body, and may enjoin a person from filing fur-**
5 **ther claims under this section without leave of court, if a person is found by the court to**
6 **have made a claim under this section that:**

7 **(a) Is dishonest in fact or that is made principally for a patently improper purpose, such**
8 **as to harass the public body; or**

9 **(b) Completely lacks merit under existing law and cannot be supported by a good faith**
10 **argument for the extension, modification or reversal of existing law or the establishment of**
11 **new law.**

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