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HOUSE BILL 2752

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State of Washington

64th Legislature

2016 Regular Session

By Representatives G. Hunt, Shea, Young, Taylor, Scott, Zeiger, Klippert, Holy, and Haler

Read first time 01/20/16. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting the rights of religious freedom and  
2 conscience of individuals in their beliefs and practices from  
3 government discrimination; and adding a new chapter to Title 49 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
6 protection of the rights of religious exercise and conscience from  
7 government discrimination act.

8 NEW SECTION. **Sec. 2.** The legislature finds the following:

9 (1) Leading legal scholars concur that conflicts between same-sex  
10 marriage and religious liberty are real and should be addressed  
11 through legislation;

12 (2) Citizens of the state hold a wide range of reasonable views  
13 on the issue of same-sex marriage, and maintaining the state's  
14 commitment to religious freedom when faced with these good faith  
15 differences of opinion is vital;

16 (3) Our nation has a long and honorable history of respecting and  
17 accommodating the religious liberty of its people, dating from before  
18 the American revolution to the present. For example, laws have  
19 protected the right of Quakers and other pacifists to serve the  
20 nation as noncombatants in times of war, the right of Jews and other

1 Sabbath observers to dedicate their time to God and family instead of  
2 work on their Sabbath, and permitting religious organizations to  
3 employ persons of the same beliefs to effectively provide charitable  
4 services to the public consistent with their beliefs;

5 (4) Protecting religious freedom from government intrusion is a  
6 government interest of the highest order. Legislation advances this  
7 interest by remedying, deterring, and preventing government  
8 interference with religious exercise in a way that complements the  
9 protections mandated by the state and federal Constitutions;

10 (5) Protecting the religious freedom of faith-based charities and  
11 educational institutions serves the state's interest in providing  
12 essential social services to the poor and educational opportunities  
13 to the next generation and is consonant with the long tradition of  
14 cooperation between the state and such charities and educational  
15 institution in the provision of such services;

16 (6) Laws and governmental actions that protect the free exercise  
17 of religious beliefs and moral convictions about marriage and gender  
18 will encourage private citizens and institutions to demonstrate  
19 tolerance for those beliefs and convictions and therefore contribute  
20 to a more respectful, diverse, and peaceful society; and

21 (7) In a pluralistic society, in which people of good faith hold  
22 more than one view of marriage, it is possible for the government to  
23 recognize same-sex marriage without forcing persons with sincerely  
24 held religious beliefs or moral convictions to conform.

25 NEW SECTION. **Sec. 3.** As used in this chapter:

26 (1) "Person" includes any individual or any corporation, limited  
27 liability company, sole proprietorship, partnership, society, club,  
28 organization, association, but does not include:

29 (a) State employees acting within the scope of their employment;  
30 or

31 (b) Hospitals, clinics, hospices, nursing homes, or other medical  
32 or residential custodial facilities with respect to visitation,  
33 recognition of a designated representative for health care decision  
34 making, or refusal to provide emergency medical treatment necessary  
35 to cure an illness or injury.

36 (2) "State" includes:

37 (a) Any department, commission, board, agency, or agent of the  
38 state;

1 (b) Any department, commission, board, agency, or agent of a  
2 political subdivision of the state; and

3 (c) Any individual or entity acting under color of state law.

4 (3) "State benefit program" means any program administered or  
5 funded by the state, or by any agent on behalf of the state,  
6 providing cash, payments, grants, contracts, loans, or in-kind  
7 assistance.

8 NEW SECTION. **Sec. 4.** (1) In general. Notwithstanding any  
9 statute, rule, or order to the contrary, the state shall not take any  
10 discriminatory action against a person, wholly or partially on the  
11 basis that such person believes, speaks, or acts in accordance with a  
12 sincerely held religious belief or moral conviction that:

13 (a) Marriage is and should be recognized as the union of one man  
14 and one woman;

15 (b) Sexual relations are properly reserved for marriage;

16 (c) Male (man) and female (woman) refer to an individual's  
17 immutable biological sex as objectively determined by anatomy and  
18 genetics by time of birth.

19 (2) Discriminatory action defined. As used in subsection (1) of  
20 this section, a discriminatory action means any action taken by the  
21 state to:

22 (a) Alter in any way the state tax treatment of, or cause any  
23 tax, penalty, or payment to be assessed against, or deny, delay, or  
24 revoke an exemption from taxation of, any person referred to in  
25 subsection (1) of this section;

26 (b) Disallow a deduction for state tax purposes of any charitable  
27 contribution made to or by such person;

28 (c) Withhold, reduce, exclude, terminate, or otherwise make  
29 unavailable or deny any state grant, contract, subcontract,  
30 cooperative agreement, guarantee, loan, scholarship, license,  
31 certification, accreditation, employment, or other similar position  
32 or status from or to such person;

33 (d) Withhold, reduce, exclude, terminate, or otherwise make  
34 unavailable or deny any entitlement or benefit under a state benefit  
35 program, including admission to, equal treatment in, or eligibility  
36 for a degree from an educational program, from or to such person; or

37 (e) Withhold, reduce, exclude, terminate or otherwise make  
38 unavailable or deny access or an entitlement to state property,  
39 facilities, educational institutions, speech fora, including

1 traditional, limited, and nonpublic fora, or charitable fund-raising  
2 campaigns from or to such person.

3 (3) Accreditation; licensure; certification. The state shall  
4 consider accredited, licensed, or certified any person that would  
5 otherwise be accredited, licensed, or certified, respectively, for  
6 any purposes under state law but for a determination against such  
7 person wholly or partially on the basis that the person believes,  
8 speaks, or acts in accordance with a sincerely held religious belief  
9 or moral conviction described in subsection (1) of this section.

10 NEW SECTION. **Sec. 5.** (1) Cause of action. A person may assert a  
11 violation of this chapter as a claim or defense in a judicial or  
12 administrative proceeding and obtain compensatory damages, injunctive  
13 relief, declaratory relief, or any other appropriate relief. Standing  
14 to assert a claim or defense under this section shall be governed by  
15 the general rules of standing under the laws of the state.

16 (2) Administrative remedies not required. Notwithstanding any  
17 other provision of law, an action under this section may be  
18 commenced, and relief may be granted, in a court of the state without  
19 regard to whether the person commencing the action has sought or  
20 exhausted available administrative remedies.

21 (3) Attorneys' fees. In any action or proceeding to enforce a  
22 provision of this chapter, a prevailing party who establishes a  
23 violation of this chapter is entitled to recover reasonable  
24 attorneys' fees and costs.

25 (4) Authority of the state to enforce this chapter. The attorney  
26 general may bring an action for injunctive or declaratory relief  
27 against any agency or authority of the state or any of its political  
28 subdivisions, or an officer or employee of such agency or authority,  
29 to enforce compliance with this chapter. Nothing in this subsection  
30 shall be construed to deny, impair, or otherwise affect any right or  
31 authority of the attorney general, the state, or any agency, officer,  
32 or employee of the state, acting under any law other than this  
33 subsection, to institute or intervene in any proceeding.

34 NEW SECTION. **Sec. 6.** No preemption, repeal, or narrow  
35 construction. The protection of free exercise of religious beliefs  
36 and moral convictions afforded by this chapter are in addition to the  
37 protections provided under federal law, state law, and the state and  
38 federal constitutions. Nothing in this chapter is construed to

1 preempt or repeal any state or local law that is equally or more  
2 protective of free exercise of religious beliefs or moral  
3 convictions. Nothing in this chapter is construed to narrow the  
4 meaning or application of any state or local law protecting free  
5 exercise of religious beliefs or moral convictions. And nothing in  
6 this chapter is construed to prevent the state from providing, either  
7 directly or through a person, individual, or entity not seeking  
8 protection under this chapter, any benefit or service authorized  
9 under state law.

10 NEW SECTION. **Sec. 7.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act  
15 constitute a new chapter in Title 49 RCW.

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