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H.B. 952
136th General Assembly

Bill Analysis

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Version: As Introduced

Primary Sponsors: Reps. A. Mathews and Fischer

Austin C. Strohacker, Attorney

SUMMARY

- Prohibits governmental entities from substantially burdening a person's exercise of religion.
- Creates a cause of action for violations of the bill's provisions.
- Waives governmental liability for actions arising from violations of the bill's provisions.
- Names the bill the Ohio Religious Freedom Restoration Act.

DETAILED ANALYSIS

The bill prohibits governmental entities from substantially burdening a person's exercise of religion, including through laws of general applicability.¹ A law that substantially burdens a person's exercise of religion is permissible only if a governmental entity demonstrates that the application of the burden is in furtherance of a compelling government interest and is the least restrictive means of furthering the interest.² If challenged, a reviewing court might consider whether this differs from Supreme Court case law, which applies the "compelling government interest" test to laws that are facially discriminatory against religion, not neutral laws that incidentally affect religion.³

¹ R.C. 9.51(B).

² R.C. 9.51(C).

³ See, e.g., *Employment Division v. Smith*, 494 U.S. 872 (1990).

The bill provides that granting government funding, benefits, or exemptions to the extent permissible under the Establishment Clause of the First Amendment is not a violation of the bill’s provisions, but the denial of government funding, benefits, or exemptions may be.⁴

A “governmental entity” is defined as including the state and any branch, department, agency, instrumentality, and official or other person acting under color of law of Ohio, or any political subdivision of Ohio. “Exercise of religion” is defined as any exercise of religion, whether or not compelled by, or central to, a system of religious belief, including the practice or observance of religion under the Ohio Constitution or the free exercise clause of the First Amendment to the U.S. Constitution.⁵

The bill creates a cause of action for individuals whose religious exercise has been burdened in violation of the bill. The bill permits such a person to bring in action in either the Court of Common Pleas of Franklin County or in the county in which the person resides and obtain “appropriate relief.”⁶ To allow such lawsuits, the bill waives governmental entities’ immunity from liability in regard to actions brought under the bill.⁷

For actions brought under the bill, the bill authorizes courts to award the prevailing party reasonable attorney’s fees. This does not apply if the prevailing party is a governmental entity. Additionally, judicial officers sued for acts or omissions taken in the officer’s judicial capacity are not liable for any costs, including attorney’s fees, unless the act or omission was clearly in excess of the officer’s jurisdiction.⁸

The bill clarifies that it is not to be construed to affect, interpret, or in any way address the portion of the First Amendment prohibiting laws respecting the establishment of religion.⁹

HISTORY

Action	Date
Introduced	05-26-26

ANHB0952IN-136/ts

⁴ R.C. 9.51(F)(2).

⁵ R.C. 9.51(A); Ohio Constitution, Article I, Section 7.

⁶ R.C. 9.51(D)(1).

⁷ R.C. 9.51(D)(2).

⁸ R.C. 9.51(E).

⁹ R.C. 9.51(F)(1).