

Committee Substitute for House Joint Resolution No. 1471

A joint resolution proposing an amendment to Section 3 of Article I of the State Constitution to eradicate remnants of anti-religious bigotry from the State Constitution and to end exclusionary funding practices that discriminate on the basis of religious belief or identity.

WHEREAS, Floridians highly value tolerance and liberty in all forms, and

WHEREAS, Floridians strongly support the right of each person to practice religion according to the dictates of his or her own conscience, and

WHEREAS, Florida is a religiously diverse state with over a quarter of its population identifying as Roman Catholic and with the largest Jewish population in the Southern United States, and

WHEREAS, the public policy of the State of Florida is to support the protection and advancement of religious liberty, and

WHEREAS, Florida's Blaine Amendment language, the last sentence of Article I, Section 3, of the current State Constitution, was originally adopted in 1885 following a failed attempt to adopt similar language in the United States Constitution, and

WHEREAS, Florida's Blaine Amendment language was borne in an atmosphere of, and exists as a result of, anti-Catholic bigotry and animus, and

WHEREAS, the genesis of Florida's Blaine Amendment language reflects an attempt to stifle and disrupt the constitutional rights and development of the emerging Catholic minority community in America, and

WHEREAS, the Constitutional Convention that adopted the Constitution of 1885 created a more religiously and racially discriminatory document than its predecessor, with the first inclusion of the Blaine Amendment language alongside the racist separate-but-equal doctrine, and

WHEREAS, the racist separate-but-equal doctrine has been duly abolished and all vestiges thereof rightfully removed from the State Constitution, and the people of Florida should now be given the opportunity to remove the discriminatory Blaine Amendment language, a lasting stain upon the state's history that stands in opposition to the people's will and counter to our time-honored traditions of religious liberty and freedom, and

WHEREAS, religiously affiliated hospitals, schools, adoption agencies, and other benevolent institutions have been of longstanding service to the people of Florida and have provided numerous services to those in need, and

WHEREAS, until 2004, no Florida court had ever applied the State Constitution in a reported case in a manner more restrictive of the use of

state funds than have federal courts applying the Establishment Clause of the First Amendment to the United States Constitution, and

WHEREAS, Florida’s Blaine Amendment is currently being enforced against religious groups and organizations of all denominations, stifling their development and inhibiting the free exercise of religious liberty, and

WHEREAS, courts have prohibited religiously affiliated schools from participating in state-funded education programs and religious organizations from participating in state-funded services to incarcerated persons, and

WHEREAS, such application of the Blaine Amendment language jeopardizes the participation of religiously affiliated hospitals and other benevolent institutions in Medicaid and other public programs, and

WHEREAS, those institutionalized in hospitals and prisons are among those most in need of spiritual nurture and encouragement as well as being often dependent on state-subsidized human services, and

WHEREAS, the enforcement of the Blaine Amendment language, barring religious organizations access to state funding and state-funded business on an equal basis with nonreligious organizations, violates the founding principles of the United States and this state as contained in the Declaration of Independence and the Preamble to the State Constitution, and

WHEREAS, the Establishment Clause of the First Amendment to the United States Constitution does not require any such absolute restrictions on the use of public funds, and

WHEREAS, the Establishment Clause permits the use of public funds in religious hospitals, schools, and other benevolent institutions, and

WHEREAS, the Establishment Clause and the religion clauses of the State Constitution, other than the Blaine Amendment, are intended to protect the religious liberties and sentiments of Floridians without inhibiting the free exercise of religion, and

WHEREAS, their religious convictions motivate some Floridians to establish religiously affiliated schools, hospitals, adoption agencies, and other benevolent institutions that provide valuable services to society and to receive or utilize such valuable services from these benevolent providers, which could be subsidized by the state through public programs, and

WHEREAS, it is not necessary to prohibit all economic relations with religious organizations and providers in order to prevent an establishment of religion that would infringe on the religious liberties of Floridians, and

WHEREAS, in 2000, a plurality of the United States Supreme Court acknowledged that this “doctrine, born of bigotry, should be buried now,” and

WHEREAS, it is necessary to amend the State Constitution to correct the aforementioned disconnect between the true sentiments and principles of Floridians and the discriminatory origins, intentions, and present application of the Blaine Amendment, in furtherance of a deeply rooted commitment to freedom and liberty, where rights and restrictions ought to be based on the merits of one's words and actions rather than on religious affiliation or identity, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 3 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3. Religious freedom.—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace, or safety. Except to the extent required by the First Amendment to the United States Constitution, neither the government nor any agent of the government may deny to any individual or entity the benefits of any program, funding, or other support on the basis of religious identity or belief. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE I, SECTION 3

RELIGIOUS FREEDOM.—Proposing an amendment to the State Constitution to provide, consistent with the United States Constitution, that no individual or entity may be denied, on the basis of religious identity or belief, governmental benefits, funding, or other support and to delete the prohibition against using revenues from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

Filed in Office Secretary of State July 1, 2011.