

OPENING REMARKS FOR SENATE BILL 192

SENATOR BARBARA CEGAVSKE

Wednesday, March 13, 2013

Senate Committee on Judiciary

- Good morning, Chair Segerblom and members of the Committee.
- For the record, I am Barbara Cegavske representing Senate District No. 8 in Clark County.
- I am here to present Senate Bill 192 for your consideration.

BACKGROUND

- Freedom of religion is protected by both the *Nevada Constitution* and the *United States Constitution*.
- Unfortunately, the constitutional provisions do not identify a legal standard for protecting religious freedom.
- That is why Congress passed the Religious Freedom Restoration Act in 1993, which declared that if a government action substantially burdens a person's religious freedom, that action has to be done in the least restrictive way and must be in furtherance of a "compelling governmental interest."

- However, in 1997 the U.S. Supreme Court held that the federal Religious Freedom Restoration Act could not be applied to the states.
- Senate Bill 192, titled the “Nevada Preservation of Religious Freedom Act,” is meant to fill the holes left by the 1997 decision.
- Passing S.B. 192 will bring Nevada in line with several other states that have passed similar laws protecting religious freedom by enacting the “compelling interest” standard.

BILL INTRODUCTION

- Let me walk you through the bill—starting with Section 3 on page 2.
- This provision clarifies that the bill applies to all existing and future State and local laws and their implementation.
- However, while this bill allows State laws enacted on or after October 1, 2013, to explicitly exclude the application of S.B. 192, the bill also makes it clear that this provision shall not be construed to authorize a governmental entity to burden a person’s religious belief.
- Moving on to page 3, the bill includes two important definitions.
- “Exercise of religion” is defined in Section 5 of the bill as the “ability to act or to refuse to act in a manner substantially motivated by a religious belief, whether

or not the exercise is compulsory or central to a larger system of religious belief.”

- Then, in Section 6, “governmental entity” is defined as the “State of Nevada, a political subdivision of the State, or an agency of either.”
- The key provisions of S.B. 192 are found in Section 7 of the bill.
- Specifically, Section 7 prohibits a governmental entity from substantially burdening a person’s exercise of religion unless the governmental entity demonstrates that the burden:
 - Furthers a compelling governmental interest; and
 - Is the least restrictive means of furthering that governmental interest.
- These standards would apply even if the burden is the result of a rule of general applicability. (*Page 3, lines 14 through 17*)
- A person whose religious exercise has been substantially burdened, may assert that violation as a claim or defense in a judicial proceeding and may be awarded appropriate relief by the court. (*Page 3, lines 24 through 32*)
[*Note: NRS 41.035 limits any damages to \$100,000.*]
- If a person prevails in an action against a governmental entity, the court must award costs and attorney’s fees. (*Page 3, lines 29 through 32*)

- To protect governmental entities, the bill allows a court to prohibit a person from bringing future claims under the act, if a court determines that the person filed earlier complaints that were without merit, fraudulent, or were intended to harass a governmental entity. (*Page 3, lines 33 through 39*)
- Finally, Section 8 of the bill makes it clear that S.B. 192 applies to actions pending on October 1, 2013—the effective date of the bill—as well as to actions filed after that date.

CONCLUSION

- Chair Segerblom and Committee Members, that concludes my prepared remarks—thank you for your time this morning.
- I will be happy to answer any questions.
- I have with me today individuals wishing to testify in support of the Nevada Preservation of Religious Freedom Act.

W132673