

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 946

(SENATE AUTHORS: LUCERO)

DATE
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Introduction and first reading
Referred to State and Local Government and Veterans

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to state government; providing for religious protections during emergency
1.3 declarations; proposing coding for new law in Minnesota Statutes, chapter 144.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[144.091] RELIGIOUS PROTECTIONS DURING EMERGENCY**
1.6 **DECLARATION.**

1.7 Subdivision 1. Definitions. (a) The following terms have the meanings given for purposes
1.8 of this section.

1.9 (b) "Discriminatory action" means an action taken by the commissioner of health or
1.10 local health boards to:

1.11 (1) alter the tax treatment of, or cause any tax, penalty, or payment to be assessed against,
1.12 or deny, delay, revoke, or otherwise make unavailable an exemption from taxation;

1.13 (2) disallow, deny, or otherwise make unavailable a deduction for state tax purposes of
1.14 any charitable contribution made to or by a religious organization;

1.15 (3) impose, levy, or assess a monetary fine, fee, civil or criminal penalty, damages award,
1.16 or injunction; or

1.17 (4) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or
1.18 otherwise make unavailable or deny any:

1.19 (i) state grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship,
1.20 or other similar benefit from or to a religious organization;

2.1 (ii) entitlement or benefit under a state benefit program from or to a religious organization;
 2.2 or

2.3 (iii) license, certification, accreditation, recognition, or other similar benefit, position,
 2.4 or status from or to a religious organization.

2.5 (c) "Religious service" means a meeting, gathering, or assembly of two or more persons
 2.6 organized by a religious organization for the purpose of worship, teaching, training, providing
 2.7 educational services, or conducting religious rituals involving exercising the right to practice
 2.8 religion.

2.9 Subd. 2. Prohibitions on limiting religious organizations. (a) The commissioner of
 2.10 health and local health boards shall not prohibit or limit a religious organization from
 2.11 continuing to operate or engage in religious services during a disaster emergency under
 2.12 chapter 12.

2.13 (b) This section does not prevent the commissioner of health or local health boards from
 2.14 requiring religious organizations to comply with neutral health, safety, or occupancy
 2.15 requirements issued under state or federal law that are applicable to all organizations and
 2.16 businesses.

2.17 (c) The commissioner of health or local health boards shall not enforce a health, safety,
 2.18 or occupancy requirement under paragraph (b) that imposes a substantial burden on a
 2.19 religious organization unless the commissioner of health or local health board demonstrates
 2.20 that applying the requirement to the religious organization is essential to further a compelling
 2.21 health or safety interest and is the least restrictive means of furthering the compelling health
 2.22 or safety interest.

2.23 (d) The commissioner of health or local health boards shall not take discriminatory action
 2.24 under this section against a religious organization wholly or partially on the basis that the
 2.25 religious organization:

2.26 (1) is religious;

2.27 (2) operates or seeks to operate during a disaster emergency under chapter 12; or

2.28 (3) exercises the right to practice religion protected by the United States Constitution
 2.29 and the Minnesota Constitution.

2.30 Subd. 3. Claim. (a) A religious organization may assert a violation of this section as a
 2.31 claim against the commissioner of health or local health board in a judicial or administrative
 2.32 proceeding or as a defense in a judicial or administrative proceeding.

3.1 (b) An action under this section may be commenced and relief may be granted in a
3.2 judicial proceeding without regard to whether the religious organization commencing the
3.3 action has sought or exhausted all administrative remedies.

3.4 (c) A religious organization that successfully asserts a claim or defense under this section
3.5 may recover:

3.6 (1) declaratory relief;

3.7 (2) injunctive relief to prevent or remedy a violation or the effect of a violation of this
3.8 section;

3.9 (3) compensatory damages for pecuniary and nonpecuniary losses;

3.10 (4) reasonable attorney fees and costs; and

3.11 (5) any other appropriate relief.

3.12 (d) A religious organization shall bring an action to assert a claim under this section no
3.13 later than two years after the date the religious organization knew or should have known
3.14 that a discriminatory action or other violation of this section was taken against the religious
3.15 organization.

3.16 Subd. 4. **Government immunity waived.** Sovereign, governmental, and qualified
3.17 immunities to suit and from liability are waived and abolished to the extent allowed under
3.18 law.

3.19 Subd. 5. **Construction.** This section shall be construed in favor of a broad protection
3.20 of the free exercise of religion. The protection of the free exercise of religion afforded under
3.21 this section is in addition to the protections provided under federal law, state law, the United
3.22 States Constitution, and the Minnesota Constitution.

3.23 Subd. 6. **Interpretation; application of law.** (a) This section does not preempt or repeal
3.24 any state or local law that is equally or more protective of the free exercise of religion. This
3.25 section does not narrow the meaning or application of any state or local law protecting the
3.26 free exercise of religion.

3.27 (b) This section applies to and in cases of conflict supersedes any statute that infringes
3.28 upon the free exercise of religion protected by this section, unless a conflicting statute is
3.29 expressly made exempt from the application of this section.

3.30 (c) This section applies to and in cases of conflict supersedes any ordinance, rule,
3.31 regulation, order, opinion, decision, practice, or other exercise of the governor's authority
3.32 that infringes upon the free exercise of religion protected under this section.

- 4.1 Subd. 7. **Severability.** If any provision or application of this section is held to be
4.2 unconstitutional, the remainder of this section shall remain effective notwithstanding the
4.3 provision or provisions held to be unconstitutional.