

Senate File 2043 - Introduced

SENATE FILE 2043

BY JOHNSON

A BILL FOR

1 An Act relating to taxation by providing for the protection
2 from disallowance of tax benefits to nonprofit organizations
3 because of certain religious beliefs and moral convictions,
4 and including effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS. The general assembly finds all of the
2 following:

3 1. Nonprofit organizations provide a vital role in society
4 by focusing resources and providing important services to meet
5 community needs without regard to profit, and the United States
6 and Iowa support and recognize these nonprofit organizations in
7 part by providing important and necessary tax benefits.

8 2. The United States and Iowa have a long, honorable history
9 of accommodating religious exercise and establishing conscience
10 protections based on religious and moral convictions.

11 3. Protecting the tax benefits available to nonprofit
12 organizations from being denied based on religious or moral
13 convictions is a state interest of the highest order. The
14 state is obligated to take measures that advance this interest
15 by remedying, deterring, and preventing government interference
16 with religious exercise in a way that complements the
17 protections mandated by the Constitution of the State of Iowa
18 and the Constitution of the United States.

19 4. In 2015, during the course of oral argument at the United
20 States Supreme Court, in *Obergefell v. Hodges*, 135 S. Ct.
21 2584 (2015), when Justice Alito asked whether an institution
22 could lose its tax-exempt status for maintaining the view that
23 marriage is the union of one man and one woman, the solicitor
24 general of the United States admitted it was "going to be an
25 issue".

26 5. In the *Obergefell v. Hodges* opinion, the United States
27 Supreme Court held same-sex couples have a right to marry, but
28 also noted, "Many who deem same-sex marriage to be wrong reach
29 that conclusion based on decent and honorable religious or
30 philosophical premises, and neither they nor their beliefs are
31 disparaged here".

32 6. In the wake of the *Obergefell v. Hodges* decision, leading
33 legal scholars concur that conflict between same-sex marriage
34 and religious liberty are inevitable and, therefore, should be
35 addressed through legislation.

1 7. The state of Iowa has an obligation to refrain from
2 discriminating against those who maintain a belief that
3 marriage is the union of one man and one woman based on
4 religious and moral convictions.

5 8. Laws that protect important and necessary tax benefits
6 from being denied because of the free exercise of religious
7 beliefs and moral convictions about marriage will encourage
8 private citizens and institutions to demonstrate tolerance for
9 those beliefs and convictions and therefore contribute to a
10 more respectful, diverse, and peaceful society.

11 Sec. 2. NEW SECTION. 421.62 **Nonprofit organization tax**
12 **benefits — protection of the free exercise of religious beliefs**
13 **and moral convictions.**

14 1. For purposes of this section, "*tax benefit*" means an
15 exclusion from the operation or collection of a tax imposed
16 in this state, including tax credits, exemptions, deductions,
17 rebates, and refunds.

18 2. Notwithstanding any other provision of state law to
19 the contrary, if a provision of the Code grants a tax benefit
20 that applies to, or is dependent upon, an organization that
21 is recognized as nonprofit, or exempt from federal taxation
22 under section 501(a) of the Internal Revenue Code, such tax
23 benefit shall not be disallowed on or after the effective date
24 of this Act because the organization believes, acts, or teaches
25 in accordance with a religious belief or moral conviction that
26 marriage is or should be recognized as the union of one man and
27 one woman, or that sexual relations are properly reserved to
28 such marriage, or because the organization was disallowed a tax
29 exemption under section 501(a) of the Internal Revenue Code on
30 the basis of those beliefs, acts, or teachings.

31 3. The protection of tax benefits provided in this section
32 applies to but is not limited to the following provisions:

33 a. The redevelopment tax credits under sections 15.291
34 through 15.295.

35 b. The workforce housing tax incentives under sections

1 15.351 through 15.356.

2 *c.* The exemption from the fee for new registration under
3 section 321.105A, subsection 2, paragraph "*c*", subparagraphs
4 (1) and (21), and subsection 3, paragraph "*f*".

5 *d.* The historic preservation and cultural and entertainment
6 district tax credit under chapter 404A.

7 *e.* The charitable contribution deduction in section 422.9,
8 subsection 2. The amount of contributions that would have
9 been deductible as a charitable contribution under section
10 170 of the Internal Revenue Code but for the fact that the
11 recipient or beneficiary of the contribution was disallowed
12 a tax exemption under section 501(a) of the Internal Revenue
13 Code for the reason described in subsection 2 of this section,
14 shall be allowed as a deductible charitable contribution under
15 section 422.9, subsection 2.

16 *f.* The school tuition organization tax credit under section
17 422.11S.

18 *g.* The charitable conservation contribution tax credit under
19 sections 422.11W and 422.33, subsection 25.

20 *h.* The tuition tax credit under section 422.12, subsection
21 2, paragraph "*b*".

22 *i.* The exemption from corporate income tax under section
23 422.34, subsection 2.

24 *j.* The charitable contribution deduction in determining
25 federal taxable income of a corporation or financial
26 institution for purposes of the net income computation under
27 section 422.35 or 422.61, as applicable. A corporation or
28 financial institution is allowed an additional subtraction
29 in computing net income equal to the amount of contributions
30 that would have been deductible as a charitable contribution
31 under section 170 of the Internal Revenue Code for purposes
32 of computing federal taxable income but for the fact that the
33 recipient or beneficiary of the contribution was disallowed a
34 tax exemption under section 501(a) of the Internal Revenue Code
35 for the reason described in subsection 2 of this section.

1 *k.* The sales tax exemptions in section 423.3, subsections 17
2 through 22, 25, 26, 27 through 30, 78, 80, and 87 through 89.

3 *l.* The sales tax refunds in section 423.4, subsections 1
4 and 6.

5 *m.* The property tax exemptions in section 427.1, subsections
6 5, 7, 8, 10, 14, 17, 21, 21A, and 22.

7 *n.* The inheritance tax exemption in section 450.4,
8 subsection 2. Property that passes for a purpose that would
9 have qualified as a charitable, educational, or religious
10 purpose as defined in sections 170(c) and 2055 of the Internal
11 Revenue Code but for the fact that the recipient or beneficiary
12 of the property was disallowed a tax exemption under section
13 501(a) of the Internal Revenue Code for the reason described in
14 subsection 2 of this section shall be considered exempt from
15 inheritance tax under section 450.4, subsection 2.

16 4. This section shall be construed in favor of a broad
17 protection of free exercise of religious beliefs and moral
18 convictions, to the maximum extent permitted by the terms of
19 this section and the Constitution of the State of Iowa and the
20 Constitution of the United States.

21 5. The protection of free exercise of religious beliefs
22 and moral convictions afforded by this section are in addition
23 to the protections provided under federal law, state law, and
24 the Constitution of the State of Iowa and the Constitution of
25 the United States. This section shall not be construed to
26 preempt or repeal any state or local law that is equally or
27 more protective of free exercise of religious beliefs or moral
28 convictions, and this section shall not be construed to narrow
29 the meaning or application of any state or local law protecting
30 free exercise of religious beliefs or moral convictions.

31 6. If any provision of this section or the application
32 thereof to any person or circumstances is held invalid, the
33 invalidity shall not affect other provisions or applications
34 of this section which can be given effect without the invalid
35 provisions or application and, to this end, the provisions of

1 this section are severable.

2 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill protects tax benefits of nonprofit organizations
8 from being disallowed because of certain religious beliefs
9 and moral convictions. The bill also makes several findings,
10 including but not limited to findings related to the state
11 interest in protecting tax benefits of nonprofit organizations,
12 and in protecting and promoting the free exercise of religious
13 beliefs and moral convictions about marriage.

14 The bill provides that notwithstanding any other provision
15 of state law to the contrary, if a tax benefit is available
16 under Iowa law that applies to, or is dependent upon, an
17 organization that is recognized as nonprofit, or exempt from
18 federal taxation under Internal Revenue Code (IRC) §501(a),
19 such tax benefit shall not be disallowed on or after the
20 effective date of the bill because the organization believes,
21 acts, or teaches in accordance with a religious belief or moral
22 conviction that marriage is or should be recognized as the
23 union of one man and one woman, or that sexual relations are
24 properly reserved to such marriage, or because the organization
25 was disallowed a tax exemption under IRC §501(a) on the basis
26 of those beliefs, acts, or teachings. "Tax benefit" is defined
27 in the bill.

28 The bill provides a nonexhaustive list of tax benefits to
29 which the protection from disallowance applies and in certain
30 cases provides for how those tax benefits shall be administered
31 when the protection from disallowance becomes applicable.

32 The nonexhaustive list includes the redevelopment tax
33 credits, the workforce housing tax incentives, several
34 exemptions from the fee for new registration, the historic
35 preservation and cultural and entertainment district tax

1 credit, the school tuition organization tax credit, the
2 charitable conservation contribution tax credit, the tuition
3 tax credit, the exemption from the corporate income tax,
4 several sales tax exemptions and refunds, several property tax
5 exemptions, the charitable contribution deductions under the
6 individual and corporate income tax and franchise tax, and the
7 charitable contribution exemption under the inheritance tax.
8 With regard to charitable contributions, the bill provides
9 that contributions or bequests that would have qualified as
10 tax-deductible charitable contributions under the IRC but for
11 the fact that the recipient or beneficiary of the property was
12 disallowed a tax exemption under IRC §501(a) for believing,
13 acting, or teaching in a way described in the bill, shall be
14 considered deductible contributions under the individual and
15 corporate income tax and franchise tax, and shall be considered
16 exempt under the inheritance tax.

17 The bill is to be construed in favor of a broad protection
18 of free exercise of religious beliefs and moral convictions,
19 to the maximum extent permitted by the terms of the bill and
20 the Constitutions of the State of Iowa and of the United
21 States. The protection of free exercise of religious beliefs
22 and moral convictions afforded by the bill are in addition to
23 the protections provided under federal law, state law, and the
24 Constitutions of the State of Iowa and of the United States,
25 and the bill is not to be construed to preempt or repeal any
26 state or local law that is equally or more protective of free
27 exercise of religious beliefs or moral convictions or to narrow
28 the meaning or application of any state or local law protecting
29 free exercise of religious beliefs or moral convictions.

30 The provisions of the bill are severable. The bill takes
31 effect upon enactment.