4/3/14 2:07 p.m.

Chapter No. 414
14/SS26/R476SG
cl / CC/TB

SENATE BILL NO. 2681

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2681

AN ACT TO ENACT THE MISSISSIPPI RELIGIOUS FREEDOM RESTORATION ACT; TO PROVIDE THAT STATE ACTION SHALL NOT SUBSTANTIALLY BURDEN A PERSON'S RIGHT TO THE EXERCISE OF RELIGION; TO PRESCRIBE THE CONTENTS OF THE GREAT SEAL OF THE STATE OF MISSISSIPPI; TO PROVIDE THAT STATE AGENCIES SHALL CONTINUE TO USE STATIONERY AND OTHER SUPPLIES HAVING THE GREAT SEAL AS IT EXISTED AS OF JULY 1, 2014, UNTIL SUPPLIES OF SUCH ITEMS ARE DEPLETED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) This act shall be known and may be cited as the Mississippi Religious Freedom Restoration Act.

(2) The Mississippi Legislature finds the following:

(a) The framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(b) Laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(c) Government should not substantially burden religious exercise without compelling justification;

(d) In *Employment Division v. Smith*, 494 U.S. 872 (1990), the United States Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(e) The compelling interest test as set forth in prior federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(3) The purposes of this section are as follows:

(a) To restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(b) To provide a claim or defense to persons whose religious exercise is substantially burdened by government.

(4) As used in this section, the following words shall have the following meanings:

(a) "Government" means any branch, department, agency, instrumentality or political subdivision of the State of Mississippi and any official or other person acting under color of law of the State of Mississippi.

(b) "Demonstrates" means to meet the burdens of going forward with the evidence and of persuasion.

(c) "Exercise of religion" means the exercise of religion under the First Amendment to the Constitution.

(5) (a) Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in paragraph (b) of this subsection.

(b) Government may substantially burden a person's ~~exercise of religion only if it demonstrates that application of~~ the burden to the person:

(i) Is in furtherance of a compelling governmental interest; and

(ii) Is the least restrictive means of furthering that compelling governmental interest.

(6) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against the government, as defined by subsection (4) of this section. Standing to assert a claim or defense under this section shall be the same as the general rules of standing under Article III of the United States Constitution.

(7) (a) This section applies to all state laws, rules, regulations and any municipal or county ordinances, rules or regulations and the implementation of those laws, whether statutory or otherwise, and whether adopted before or after the enactment of this section.

(b) Any such law, rule, regulation or ordinances adopted after the effective date of this section shall be subject to this section unless such law explicitly excludes such application by reference to this section.

(8) Nothing in this act shall be construed to authorize any government to burden any religious belief.

(9) Nothing in this section shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion. Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this section. As used in this subsection, the term "granting," used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

(10) Nothing in this act shall create any rights by an employee against an employer if the employer is not the government.

SECTION 2. It shall be the duty of the Secretary of State to procure the official seal of this state as described in this section.

The center of the seal shall have an eagle displayed proper, holding an olive branch in his dexter talon and a bundle of three (3) arrows in his sinister talon. The shield on the breast of the eagle shall have eleven (11) vertical stripes of alternating white

and red, supporting a chief of blue with eleven (11) white five-pointed stars in two (2) rows with five (5) stars in each row and one (1) star centered over the third column.

The margins dexter and sinister of the center point of the shield shall each have one (1) white five-pointed star. The margin over the eagle shall have the inscription "THE GREAT SEAL OF THE STATE OF MISSISSIPPI." The margin under the eagle shall have the inscription "IN GOD WE TRUST."

The official seal need not be printed or otherwise displayed in color.

SECTION 3. All state agencies shall continue to use stationery and other supplies having the great seal thereon as it existed before July 1, 2014, until such stationery and other supplies are depleted. The great seal as it existed before July 1, 2014, affixed on any public buildings, property or any other item shall remain thereon until the replacement of the seal due to normal wear or until replacement with any nonpublic funds.

SECTION 4. The 1818 Mississippi Laws, Act of January 19, 1818, Page 142, which provided for the description of the seal of the state, is hereby repealed.

SECTION 5. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
April 1, 2014

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 1, 2014

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

4/3/14 2:07 pm