

SUBJECT: Prohibiting governmental subpoenas for religious sermons

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Cook, Giddings, Craddick, Geren, K. King, Kuempel, Meyer, Oliveira, Paddie, E. Rodriguez, Smithee

0 nays

1 absent — Guillen

1 present not voting — Farrar

WITNESSES: For — (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings; Tom Mechler, Republican Party of Texas; Kathryn Freeman, Texas Baptists Christian Life Commission; Michael Geary, Texas Conservative Coalition; Joshua Houston, Texas Impact; Jennifer Allmon, The Texas Catholic Conference of Bishops; Don Dixon; Terri Hall; Jenna Hall; Beverly Nuckols)

Against — (*Registered, but did not testify:* Joanne Richards, Common Ground for Texans; Lon Burnam, Public Citizen; Carol Birch, Public Citizen Texas; Virginia Parks)

DIGEST: HB 3956 would prohibit a governmental unit, including the state, political subdivisions, and other entities described in Civil Practice and Remedies Code, sec. 101.001, from acting in a civil action or other civil or administrative proceeding to compel the production or disclosure of a written copy or audio or video recording of a sermon delivered by a religious leader during religious worship of a religious organization or to compel the religious leader to testify regarding the sermon.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: HB 3956 would protect the religious liberties and free speech of religious leaders by protecting their sermons from being subpoenaed in connection with a lawsuit or administrative proceeding. The bill is narrowly tailored to protect religious leaders' First Amendment rights and to prevent government overreach and intimidation. It would apply only to a sermon and not to information such as a church's financial records that could be relevant to a tax status inquiry.

In 2014, the city of Houston subpoenaed sermons and speeches of five Houston pastors who opposed a city ordinance. Although the city eventually withdrew the subpoenas, the situation illustrated the need for a law to prevent future attempts by government to compel production of written and recorded sermons. The bill would protect religious organizations from future costly litigation.

OPPONENTS SAY: HB 3956 could shield religious organizations from legitimate government inquiries about whether they were violating their tax-exempt status by engaging in political campaigns. Under the Internal Revenue Code, all sec. 501(c)(3) organizations are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of or in opposition to any candidate for elective public office.

NOTES: A companion bill, SB 24 by Huffman, was approved by the Senate on March 8 and was reported favorably by the House State Affairs Committee on May 3.