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HOUSE BILL NO. 1437

Offered January 14, 2015

Prefiled December 24, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 57-2.03, relating to prayer, invocation, or benediction provided at public events.*

Patrons—Bell, Richard P., Adams, Cline, Fariss, Head, Hodges, Knight, Landes, LaRock, Marshall, D.W., Minchew, Morefield, Morris, Orrock, Peace, Pogge, Poindexter, Ware, Wilt and Wright

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 57-2.03 as follows:

§ 57-2.03. Authority to adopt ordinance allowing invocation to open public meeting of deliberative public body; definitions.

A. As used in this section:

"Deliberative public body" means a state board or commission, the governing body of a county or municipal government, a school board, a branch or division of a county or municipal government, or a special purpose or public service district.

"Public invocation" means an invocation delivered in a method provided pursuant to subsection B to open the public meeting of a deliberative public body. In order to comply with applicable constitutional law, the method shall not produce over time a pattern of invocations or prayers that targets a particular religious perspective for denigration, threatens damnation, or preaches conversion.

B. A deliberative public body, by ordinance, resolution, or written policy statement, may adopt a policy to permit a public invocation before each meeting of the public body, for the benefit of the public body. The policy may allow for an invocation to be offered on a voluntary basis, at the beginning of the meeting, by:

1. One of the public officials elected or appointed to the deliberative public body, so long as the opportunity for invocation duty is regularly and objectively rotated among all of that deliberative public body's public officials;

2. A chaplain elected by the public officials of the deliberative public body; or

3. An invocation speaker selected on an objective and rotating basis from among a wide pool of the religious leaders serving established religious congregations in the local community in which the deliberative public body meets.

C. To ensure objectivity in the selection, the deliberative public body on an annual basis shall compile a list of all known, established religious congregations and assemblies by reference to local telephone books or similar sources, or both, and on an annual basis shall mail an invitation addressed to the religious leader of each congregation and assembly. The invitation shall contain, in addition to scheduling and other general information, the following statement: "A religious leader is free to offer an invocation according to the dictates of his own conscience, but, in order to comply with applicable constitutional law, the [name of deliberative public body issuing the invitation] requests that the public invocation opportunity not be exploited to proselytize or advance any one, or to disparage any other faith or belief. Each respondent who accepts the invitation to deliver an invocation at an upcoming meeting of the deliberative public body shall be scheduled to deliver an invocation on a first-come, first-served basis."

D. In order that deliberative public bodies may have access to advice on the current status of the law concerning public invocations, the Attorney General shall prepare a statement of the applicable constitutional law and, upon request, make that statement available to a member of the General Assembly or a deliberative public body. As necessary, the Attorney General shall update this statement to reflect any changes made in the law. The Attorney General may make the statement available through the most economical and convenient method, including posting the statement on his website.

E. The Attorney General shall defend any deliberative public body against a facial challenge to the constitutionality of policies consistent with this section.

F. Nothing in this section shall be construed to prohibit a deliberative public body from developing its own policy on public invocations based upon advice from its legal counsel.

2. That the General Assembly, by joint resolution, may appoint one or more of its members who sponsored or cosponsored the provisions of this act in his official capacity to intervene as a matter of right in any case in which the constitutionality of this act is challenged.

INTRODUCED

HB1437