COMMITTEE REPORT

March 20, 2013

**S. 472**

Introduced by Senators Campsen, Gregory, S. Martin, Shealy, Massey, Thurmond, Bright, Bryant, Davis, Turner, Young, Alexander, Grooms, Verdin, Hayes, Corbin, Bennett, Hembree, Fair and L. Martin

S. Printed 3/20/13--S.

Read the first time February 28, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 472) to amend Article 5, Chapter 1, Title 59 of the 1976 Code, relating to education, to enact the “Student Association Freedom of Religion Act”, by adding Section, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting therein the following:

/ A BILL

TO AMEND ARTICLE 5, CHAPTER 1, TITLE 59 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO EDUCATION, TO ENACT THE “STUDENT ASSOCIATION FREEDOM OF EXPRESSION AND RELIGION ACT”, BY ADDING SECTION 59‑1‑436 TO PROVIDE FOR DEFINITIONS RELATED TO THE ACT, AND THAT NO PUBLIC INSTITUTION OF HIGHER LEARNING SHALL TAKE ANY ACTION OR ENFORCE ANY POLICY THAT DENIES A RELIGIOUS STUDENT ASSOCIATION ANY BENEFIT AVAILABLE TO ANY OTHER STUDENT ASSOCIATION BASED ON THE RELIGIOUS STUDENT ASSOCIATION’S REQUIREMENT THAT ITS LEADERS OR MEMBERS ADHERE TO ITS SINCERELY HELD RELIGIOUS BELIEFS OR STANDARDS OF CONDUCT, OR DENIES AN EXPRESSIVE STUDENT ASSOCIATION ANY BENEFIT AVAILABLE TO ANY OTHER STUDENT ASSOCIATION BASED ON THE EXPRESSIVE STUDENT ASSOCIATION’S REQUIREMENT THAT ITS LEADERS OR MEMBERS ADHERE TO THE VIEWPOINTS OR CONDUCT THE EXPRESSIVE STUDENT ASSOCIATION ADVOCATES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and cited as the “Student Association Freedom of Expression and Religion Act”.

SECTION 2. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59-1-436. (A) As used in this section:

(1) ‘Benefits’ include, without limitation:

(a) recognition;

(b) registration;

(c) the use of facilities of the public institution of higher learning for meetings or speaking purposes;

(d) the use of channels of communication of the public institution of higher learning;

(e) funding sources that are otherwise available to any other student association in the public institution of higher learning.

(2) ‘Public institution of higher learning’ shall have the meaning provided in Section 59‑103‑5.

(3) ‘Expressive student association’ means a student association whose purpose, in part or in whole, is to advocate for public or private viewpoints or conduct.

(B) No public institution of higher learning shall take any action or enforce any policy that denies:

(1) a religious student association any benefit available to any other student association based on the religious student association's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct; or

(2) an expressive student association any benefit available to any other student association based on the expressive student association's requirement that its leaders or members adhere to the viewpoints or conduct the expressive student association advocates.

(C) This section does not apply to religious student associations and expressive student associations that intentionally incite or produce likely and imminent illegal action prohibited by statute or general law.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

GEORGE E. CAMPSEN III C. BRADLEY HUTTO

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Based on the colleges’ and universities’ individual responses to the Commission on Higher Education survey, it was determined that the provision would have no to minimal impact and any additional costs could be absorbed within existing resources.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND ARTICLE 5, CHAPTER 1, TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, TO ENACT THE “STUDENT ASSOCIATION FREEDOM OF RELIGION ACT”, BY ADDING SECTION 59-1-436 TO PROVIDE FOR DEFINITIONS RELATED TO THE ACT, AND THAT NO PUBLIC INSTITUTION OF HIGHER LEARNING SHALL TAKE ANY ACTION OR ENFORCE ANY POLICY THAT WOULD DENY A RELIGIOUS STUDENT ASSOCIATION ANY BENEFIT AVAILABLE TO ANY OTHER STUDENT ASSOCIATION BASED ON THE RELIGIOUS STUDENT ASSOCIATION’S REQUIREMENT THAT ITS LEADERS OR MEMBERS ADHERE TO ITS SINCERELY HELD RELIGIOUS BELIEFS OR STANDARDS OF CONDUCT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and cited as the “Student Association Freedom of Religion Act”.

SECTION 2. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59-1-436. (A) As used in this section:

(1) ‘Benefits’ include, without limitation:

(a) recognition;

(b) registration;

(c) the use of facilities of the public institution of higher learning for meetings or speaking purposes;

(d) the use of channels of communication of the public institution of higher learning;

(e) funding sources that are otherwise available to any other student association in the public institution of higher learning.

(2) ‘Public institution of higher learning’ shall have the meaning provided in Section 59‑103‑5.

(B) No public institution of higher learning shall take any action or enforce any policy that would deny a religious student association any benefit available to any other student association based on the religious student association’s requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.”

SECTION 3. This act takes effect upon approval by the Governor.

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