



House Budget Bill Blocks Funds for Religious Speech Enforcement

Sarah Chavey

August 3, 2017

A budget bill under consideration by Congress contains language blocking Internal Revenue Service enforcement of tax laws prohibiting political speech by religious organizations.

House Resolution 3280 (H.R. 3280), the Financial Services and General Government Appropriations Act of 2018, contains a clause preventing federal taxpayer money from being used to enforce the Johnson Amendment.

The Johnson Amendment, named for then-U.S. Sen. Lyndon B. Johnson, is a provision in the Internal Revenue Code of 1954 prohibiting all nonprofit organizations from officially endorsing or opposing political candidates.

On July 18, the House Committee on Appropriations approved H.R. 3280, and the budget bill became available for consideration by the full House of Representatives.

Drawing a Line at the Church Door

Walter Olson, a senior fellow at the Cato Institute, says it is difficult to cleanly separate religious speech and political speech.

“There is no clear line between what churches say about religion and the world, and the controversies that are at stake in elections,” Olson said. “If someone is preaching a religious sermon, who was drawn to something about current controversies, it seems strange to say they should have to stop mid-sentence because they’re criticizing someone in an election. Do we really want tax law to be inhibiting congregations and their administration from carrying on services, in the way that they wish?”

On the Other Hand...

Olson says keeping the Johnson Amendment on the books may have its advantages, though.

“We have chosen in tax law to treat campaign expenditures very differently than how we treat the collection plate at church,” Olson said. “Were there nothing like the Johnson Amendment, were there some absolute immunity for churches to do whatever they please, you can see why people would say ‘why should I give \$1,000 to a campaign fund, when I can give it to a church and deduct it from my taxes?’”

Delays Enforcement of Rules

Dan Johnson, executive director of the Tax Revolution Institute, says the budget provision is relatively harmless.

“All this does, is it makes it take a longer time to take away a church’s tax-exempt status,” Johnson said.

More Protections for Speech

In addition to considering the budget bill, including the Johnson Amendment language, lawmakers should clarify the federal tax code and exclude speech from tax law, Johnson says.

“Clarification of the Johnson Amendment, so that it only applies to donations and not to speech of any kind ... That would have a marked impact on the fear that other nonprofits have of speaking out,” Johnson said.