



IN THE FOOTSTEPS OF THE FOUNDERS

A Guide to Defending American Values

THE AMERICAN LEGION FAMILY



THE AMERICAN LEGION

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“PERA is gaining recognition as an important piece of legislation both among members of Congress and constituents. It is encouraging that The American Legion has voiced strong support for this legislation and it is critical that we pass PERA in the 109th Congress so that freedom of religious expression under the First Amendment can be restored and protected.”

– John N. Hostettler, Member of Congress

PUBLIC EXPRESSION OF RELIGION ACT OF 2005 (INTRODUCED IN HOUSE)

HR 2679 IH

109th CONGRESS

1st Session

H. R. 2679

To amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees.

IN THE HOUSE OF REPRESENTATIVES

May 26, 2005

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Public Expression of Religion Act of 2005'.

SEC. 2. LIMITATIONS ON CERTAIN LAWSUITS AGAINST STATE AND LOCAL OFFICIALS.

(a) Civil Action for Deprivation of Rights- Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended--

(1) by inserting '(a)' before the first sentence; and

(2) by adding at the end the following:

'(b) The remedies with respect to a claim under this section where the deprivation consists of a violation of a prohibition in the Constitution against the establishment of religion shall be limited to injunctive relief.'

(b) Attorneys Fees- Section 722(b) of the Revised Statutes of the United States (42 U.S.C. 1988(b)) is amended by adding at the end the following: 'However, no fees shall be awarded under this subsection with respect to a claim described in subsection (b) of section nineteen hundred and seventy nine.'

**EIGHTY-SIXTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
NASHVILLE, TENNESSEE
AUGUST 31, SEPTEMBER 1, 2, 2004**

**Resolution No. 326:
Preserve WWI Veterans Memorial In Mojave Desert**

Whereas, The motto of The American Legion has been “For God and Country” since its founding by veterans of World War I in 1919; and

Whereas, The American Legion Department of California, assembled in convention in Riverside County, California, in 2003, by vote of delegates did pass a resolution in support of legislation to officially designate as the Mojave Desert Veterans Memorial the site at which in 1934 a cross was erected in tribute to veterans; and

Whereas, The United States Congress passed legislation designating that site as an official veterans memorial and providing for its preservation by exchanging that one-acre site for a five acre site privately owned, thus placing the veterans memorial in private hands to be cared for by veterans organizations; and

Whereas, Notwithstanding that action by Congress, the United States Ninth Circuit Court of Appeals has recently ruled at the request of the American Civil Liberties Union (ACLU) that the cross at the Mojave Desert Veterans Memorial must be removed or destroyed; and

Whereas, The ACLU has sought and obtained hundreds of thousands of dollars in attorneys fees awarded by judges pursuant to the authority granted to the courts to award attorney fees in such cases pursuant to the Civil Rights Act, 42 United States Code, Section 1988; and

Whereas, The authority of judges to impose on taxpayers the burden of paying attorney-fee awards to the ACLU for pursuing lawsuits to remove or destroy religious symbols derives exclusively from 42 U.S.C. Section 1988 established by Congress; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Nashville, Tennessee, August 31, September 1, 2, 2004, That Congress should amend 42 U.S.C. Section 1988, to expressly preclude the courts from awarding attorney fees under that statute, in lawsuits brought to remove or destroy religious symbols.

**EIGHTY-SEVENTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
HONOLULU, HAWAII
AUGUST 23, 24, 25, 2005**

**Resolution No. 166:
The Boy Scouts Of America And The Department Of Defense**

Whereas, The Eighty-Second National Convention of The American Legion in Milwaukee, Wisconsin passed Resolution 334 titled “Support of Boy Scouts of America” which reiterated The American Legion’s longstanding support of the Boy Scouts of America in its efforts to maintain and practice traditional family values with regard to their membership and their leadership standards; and

Whereas, The American Legion, as chartered by the United States Congress, pledges to “transmit to posterity the principles of justice, freedom and democracy”; and

Whereas, The American Legion endorses the concept that the perpetuation of these principles may best be initiated by an enlightened public achieved through the implementation of educational practices offered in the homes, in our schools and through public wide programs organized and developed for this purpose by organizations like the Boy Scouts of America; and

Whereas, The Supreme Court of the United States has upheld the constitutional right of the Boy Scouts of America to set their own standards and membership policies because an indispensable part of being free is the right of individuals to hold moral positions and to associate with others who share those positions; and

Whereas, Despite the Supreme Court having ruled in favor of the Boy Scouts’ freedom to associate with those sharing their moral views and to not associate with those who do not share their moral views, the Boy Scouts have been subjected to a continual barrage of attacks by groups and individuals holding opposing views; and

Whereas, These opposition groups have been successful in eliminating the Scouting program from all branches and installations of the U.S. Armed Forces; and

Whereas, The American Legion believes that this unrelenting assault against the Boy Scouts is not a unique occurrence but a part of an orchestrated effort to denigrate, damage and systematically destroy traditional American values, as embodied in the Boy Scouts of America, The American Legion, the Flag of the United States, the Pledge of Allegiance, and numerous other embodiments of Americanism; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, August 23, 24, 25, 2005, That The American Legion express its steadfast opposition to Department of Defense policies that prohibit the chartering of Boy Scout units by components of the Armed Forces of the United States and the use by the Boy Scouts of America of Department of Defense installations worldwide; and, be it finally

RESOLVED, That The American Legion use every executive, legislative and judicial avenue available to restore longstanding policies of cooperation between the Department of Defense and the Boy Scouts of America that will allow Boy Scout units the right to use DoD facilities and to authorize components of the active duty military, National Guard and reserve units to charter or sponsor Boy Scout units without fear of legal reprisal.

THE MISSION: TO MOBILIZE AMERICA TO URGE PASSAGE OF THE PUBLIC EXPRESSION OF RELIGION ACT (PERA).

The American Legion is spearheading a nationwide effort to develop a grass-roots groundswell of support to pass legislation in Congress: The Public Expression of Religion Act, H.R. 2679.

Legionnaires, members of The American Legion Auxiliary and the Sons of The American Legion are dedicated to combating the secular cleansing of our American heritage through Establishment Clause lawsuits, and it's for the same reason that George Washington, the first American soldiers and our Founding Fathers were involved in combating the tyranny of their times: to safeguard and transmit to posterity America's freedom and American values.

Across the nation, litigation is being brought by groups like the ACLU attacking the Boy Scouts, the public display of the Ten Commandments and other symbols of America's religious history. Today's lawyers and judges are outlawing the values and religious symbols that the Founding Fathers revered and proclaimed as the very foundation of the American republic.

They are rewriting the Constitution and remaking America, not by amending the Constitution as provided for by the Founding Fathers, but by judicial fiat.

Today, judges in an increasingly tyrannical judiciary have issued orders in Establishment Clause cases that ban the Boy Scouts, ban the Ten Commandments, ban religious symbols at veterans memorials, ban the Pledge of Allegiance, ban historical religious symbols in the official seals of counties, and ban cities and the Department of Defense from assisting the Boy Scouts. At the same time they award millions of dollars to the ACLU and others in "attorney fees" to be paid by taxpayers.

Our republic was founded on the principle that "We, the People," are sovereign, acting through democratically elected representatives. That representative democracy is being distorted, crippled and rendered impotent by lawyers exploiting our civil-rights laws for a profit.

Many lawyers of the modern bar have usurped the authority to decide the most fundamental questions of life and death: who we are and what kind of nation we are. "We, the People," has been replaced by "We, the lawyers." A "nation under the rule of law" has become "a nation under the rule of lawyers."

Thomas Jefferson, father of the Declaration of Independence, warned us against a judicial tyranny more than 200 years ago when he wrote: “It is a dangerous doctrine, indeed, to consider the judges to be the ultimate arbiters of all constitutional questions. It will lead to a despotic oligarchy.”

Jefferson further warned: “[T]he germ of dissolution of our federal government is in our federal judiciary; an irresponsible body, working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing in its noiseless step like a thief over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one.”

Jefferson’s prophecy has been realized in our times.

When the question was raised as to who, if not the lawyers, i.e., judges, would decide the ultimate constitutional questions of who we are and what kind of nation we should be, the Founding Fathers were quick to answer, “The People, themselves.”

We in The American Legion family take seriously the words of the Founding Fathers of our nation.

Legionnaires take seriously the oaths we took when we entered the military service “...To defend the Constitution of the United States against all enemies, foreign and domestic.”

We also take seriously the words of the founders of The American Legion, ordinary GI’s of World War I, “To safeguard and transmit to posterity the principles of justice, freedom and democracy.”

Simply stated, Legionnaires cannot “safeguard and transmit to posterity” American values and the America the Founding Fathers created if we stand back and allow the symbols of American heritage to be banned from the public square and effectively wiped from our history, our collective consciousness and our national character.

Resolution 326, Preserve Mojave Desert Veterans Memorial, was adopted unanimously at the 2004 National Convention after a federal judge in Riverside, California, ordered a solitary Latin cross located in the Mojave Desert – a World War I veterans memorial – to be destroyed. The court then awarded the ACLU \$63,000 in attorney fees.

American Legion Resolution 326 calls on Congress to eliminate the authority of judges to award these fees in Establishment Clause cases. The Public Expression of Religion Act, H.R. 2679, does just that.

Most Americans are totally unaware that, as taxpayers, they have been paying millions of dollars annually to groups like the ACLU in Establishment Clause lawsuits against the Boy Scouts, the Ten Commandments and against religious symbols at veterans memorials.

Title 42 U.S. Code, Section 1988 was intended to help the poor obtain legal counsel in claims of real, tangible violations of civil rights. To enrich itself, the ACLU has exploited it.

The Mojave Desert World War I Veterans Memorial case in California is a very dangerous precedent. There are 9,000 crosses and Stars of David at Normandy Beach. There are 22 national cemeteries with veterans at rest beneath religious symbols. There is nothing in the law to prevent groups like the ACLU from filing Establishment Clause lawsuits against those sacred grounds and then receiving taxpayer-paid attorney fees.

There simply is no reasonable basis to support the profiteering in attorney-fee awards ordered by judges in these cases. The very threat of such fees has made elected bodies, large and small, surrender to the ACLU's demands to secularly cleanse the public square.

Therefore, we believe this issue crosses all ideological, religious and party lines. It is an American issue that all Americans should support.

Further, veterans memorials should be sacrosanct. Period. Congress should exercise its authority under the Constitution to deny jurisdiction to the judicial branch over lawsuits against veterans memorials under the Establishment Clause.

The American Legion does not intend to surrender to the ACLU, or anyone else, in defense of veterans memorials, the Boy Scouts, or the public display of American religious history and heritage.

We are involved because we are veterans who served the nation when our country called. But most of all, we are involved because we are Americans.

“For God and country” is our credo, and both are in peril today.

In order to win the battle to “safeguard and transmit” to posterity the America the Founding Fathers created, it is clear what we must do: **We must walk in the footsteps of the founders.**

Being involved in making the Public Expression of Religion Act the law of the land is one small, but extremely important, step that must be taken. This is a crusade we can, we should, we must win if we are to walk in the footsteps of the Founders.

We Americans of this generation can do no less.

ENGAGE YOUR COMMUNITY

Educate and Activate

How many people in your community know that the ACLU receives tax dollars as payment for winning lawsuits that force the removal of a religious icon from a public place? Not only must Americans endure the court-ordered removal of their religious symbols, but judges are reaching into our back pockets in compensating them to do it.

Absurd?

Yes, but true. The ACLU gathers millions of dollars by filing self-enriching lawsuits attacking the values and heritage of our great nation in cities and towns across the country.

Your post, unit or squadron can help put a stop to this egregious practice by implementing two simple techniques in your community.

Educate and activate.

Educate residents in your community about this little-known practice that keeps the ACLU well heeled in cash. Every time it wins a case and collects hundreds of thousands of dollars, the ACLU gains momentum to challenge yet more religious and historical symbols, including the Boy Scouts of America.

The American people need to learn about this legal loophole in the law that lets judges award huge amounts of tax dollars to the ACLU. Then, they need to know how to fix the problem. Close this legal loophole and resultant attacks on values and heritage will dry up.

Activate every voter to contact his or her Congressman and urge him or her to sign on as a co-sponsor and vote for the Public Expression of Religion Act, H.R. 2679. Ask them to call, write and e-mail their elected representative. Visit them at their district office when Congress is on break. Tell them to fix this loophole, that the values and heritage of our country are too important to be constantly attacked in ways that would shock and anger the founders of this nation.

There are many ways your American Legion post/unit/squadron can educate the public in your area. A subsequent section in this booklet, and The American Legion Web site, will give you the fill-in-the-blank media tools to do the job.

Media – The media is the best way to reach the largest number of people. Print, radio and television news stories cover local news. The American Legion launching a major campaign to correct a problem affecting the local area and the nation is news and will be covered by reporters if presented in the proper fashion.

Provide radio public service spots to local stations. Contact local talk radio hosts, particularly religious and talk format stations. Enlist the support of the host in getting the word out along with the “fix.”

Write letters to the editor of your local papers, large and small. Offer them an opinion editorial on the topic. If printed, it will generate plenty of letters in response and get the debate going.

Post/Unit/Squadron Newsletters – First, make sure that all your members are aware of the issue and the call to action. Use your newsletter to reach all members and solicit their full commitment and participation.

Clergy - Write a letter to every pastor, rabbi and religious leader in your community, laying out the problem and the fix. Ask them to join you in getting the word out to their congregations.

Flyers – Saturate your area with printed flyers about the problem and the fix. Include on the flyer your telephone number to call for more information or direct them to The American Legion Web site at www.legion.org for full details.

Speakers Bureau – Volunteer to speak at meetings of other civic and fraternal groups in your area using the prepared speech you can download from The American Legion Web site. Feel free to adapt it for your comfort level. This is an issue that concerns all Americans, so your presentation should be sought after by many groups such as Rotary, Lions Club, Kiwanis, Moose and other veteran service organizations.

The Community Team – Contact local elected officials, religious leaders, business executives and other groups interested in preserving our values and heritage as a nation. Establish a coordinated committee with one purpose: to stop the ACLU by changing this legal loophole through passage of PERA.

Sponsors – Some local businesses that feel strongly about this issue might be willing to fund buttons that can be handed out with the basic message. They might provide money to cover the cost of refreshments at a town hall meeting on this issue at your post home. Perhaps they could cover the cost of a billboard with the basic message or pay for the distribution of flyers or door knob hangers.

Video/Town Hall Meetings – Schedule a town hall meeting at your post home to present this information. Show the free video available from the National Public Relations Commission Office. Invite the whole town. Solicit ideas. Activate them to contact their representative. Order your DVD by sending an e-mail to pr@legion.org or call (317) 630-1253. The video contains two sections: a short documentary about the issue produced by Coral Ridge Ministries, and the presentation made by former ACLU attorney and Legionnaire Rees Lloyd to delegates to The American Legion's 87th National Convention in Honolulu in August 2005. The first section, approximately eight minutes long, can be used in conjunction with the prepared speech for local presentations to civic groups if a DVD player is available.

Public – Community Access Cable Television – Offer the video for broadcast on local cable and public television channels in your area. Ask them to place The American Legion web site (www.legion.org) at the end of the program so viewers can get additional information.

Petition Drive – Using the form attached, launch a community petition drive to obtain signatures supporting H.R. 2679 to deliver to your district congressman. Coordinate with other members of your community council. Provide them with plenty of copies. Suggest local events and locations for volunteers to obtain signatures. Arrange a single collection point – your post home, for example – and set a cut-off date. Deliver them in person with other community council members to your representative's district office. Contact the media to let them know the day before you make the delivery. Be available for interviews by local news reporters about the effort.

This booklet contains the tools that will enable you to engage your community as described above.

Preserving our religious and cultural heritage is a mission that we must not fail to achieve. It is the essence of America and a key ingredient to a one hundred percent Americanism proclaimed in the preamble to the constitution of The American Legion.

Our predecessors penned and lobbied Congress to pass the GI Bill, which affected millions of lives and paved the way into the 21st century. Winning the war against our values is no less significant.

Every member of Congress must be inundated with calls to pass HR 2679. Then, every U.S. senator must receive the same message for a companion bill. Finally, the president of the United States must receive a clear, unequivocal signal that the citizens of this country demand that the bill be signed into law.

So that's it. You know your Congressional district, your neighbors and those who care about America. Your post, unit and squadron has "point" on this in your district.

Educate and activate.

Collectively, we will move the nation.

For God and country.

Order your free DVD

by sending an email to pr@legion.org or call (317) 630-1253.

BOY SCOUTS OF AMERICA

As a youngster you probably heard kids taunt one another with “so, you want to make a federal case out of it?”

Well, those kids have grown up, and they still taunt others with that same line. But now some may carry the card of the American Civil Liberties Union.

What the ACLU has done to the character of America by making religious matters federal cases is a major study in constitutional subversion.

The ACLU, more than any other group, is chiefly responsible for the gradual gnawing away at America’s values in general and the Boy Scouts of America in particular. The tirade against Scouting goes back many years, but the Dale case in New Jersey is a place to begin.

The Dale case had to do with prohibiting access to Scouting by avowed homosexuals. In 2002, the U.S. Supreme Court ruled that the Scouts have a First Amendment right to set standards for membership and leadership in its organization and exclude avowed homosexuals.

With that, the ACLU reared its head, pointed at Scouting and labeled it “discriminatory” – and the cases just kept on coming.

The Wyman case in Connecticut found that because Scouting barred homosexuals from their ranks, they were in violation of state law against discrimination. And BSA was not allowed to receive moneys solicited through Connecticut state charities. The ACLU celebrated.

The Balboa Park case in San Diego, in which the federal courts ruled that Boy Scouts of America promote a belief in God and is, therefore, a “religious organization.” As such, they are not entitled to receive support from the government. That decision evicted BSA from city property they inhabited for 40 years and into which the Boy Scouts put millions of dollars. The ACLU celebrated.

The Winkler case in Illinois, in which the court decided in the ACLU’s favor that schools in Chicago violated the law by chartering Scout units. Getting out of the case cost the school board \$90,000. The ACLU was granted that money by the court and again celebrated.

The Winkler case again was used to threaten the Department of Defense with litigation, claiming that chartering of Boy Scout units by military facilities overseas was “unconstitutional,” since BSA was a “religious organization.” The Department of Defense, bending to the ACLU’s threat, warned its overseas military facilities not to charter Scouting units. And again, the ACLU celebrated.

The Winkler case, once more, in which a decision handed down in March of 2005 declared for the ACLU that Scouting is a “religious organization.” As such, support of the Boy Scout Jamboree by the Department of Defense is a conflict in church-state relations and, therefore, unconstitutional.

The Scouts have been attacked relentlessly on two fronts: for their prohibition of homosexual members and leaders – a right asserted by the Supreme Court - and for their belief in God.

Interestingly, the court’s failure to recognize that the very label being painted on the Scouts – that of discrimination – is exactly what the ACLU and the courts are doing to BSA. They are discriminating against Scouting because Scouting refuses to turn from its core values of God and country.

If the ACLU is allowed to triumph over the Scouts, and the schools, and the Department of Defense . . . well, who or what is next? Crosses in national cemeteries? Eradication of the Ten Commandments from the walls of the U.S. Supreme Court?

If Scouting can be hounded by the courts for being a “religious organization” where does that place The American Legion? If Scouts can’t hold to their moral and religious standards without fear of backlash from the courts, should we be concerned that we could be next?

Yes, we should – and we are – and that is another big reason for our support of Scouts in their battle against the courts and the American Civil Liberties Union.

Passage of PERA will prevent tax-dollar attorney-fee compensation in cases filed against the Boy Scouts.

QUESTIONS AND ANSWERS

1. Why is the American Legion family involved?

The American Legion family is involved in the effort to have the Public Expression of Religion Act, H.R. 2679 (PERA) passed by Congress because of the clear need to stop the ACLU and other organizations from making enormous profits in lawsuits under the Establishment Clause attacking the Boy Scouts, the public display of the Ten Commandments, the Pledge of Allegiance, and other symbols of our American religious history and heritage, including religious symbols at veterans memorials.

Pulling the rug out from under the funding source against American values should significantly curtail the current proliferation of attacks.

In addition to being the core of Americanism, the effort is mandated by Resolution 326, Preserve WWI Mojave Desert Veterans Memorial, which was adopted unanimously by delegates to the 2004 National Convention. It calls on Congress to amend the Civil Rights Attorney Fees Act, 42 U.S. Code Section 1988, to withdraw the authority of judges to award attorney fees to the ACLU, or anyone else, in lawsuits brought under the Establishment Clause, and only cases under the Establishment Clause.

PERA does just that. It will stop the ACLU from seeking, and like-minded judges from granting, enormous attorney fees to the ACLU in these cases – when the donation-supported ACLU in fact has no attorney fees, as its cases are done by staff or volunteer attorneys pro bono.

PERA is a concrete mechanism to help defend American values.

2. What are some examples?

Most Americans are totally unaware that they have been paying the ACLU millions in attorney-fee awards in Establishment Clause cases – and are outraged when they learn of it. The amounts are staggering.

For instance, the city of San Diego agreed to pay the ACLU some \$940,000 in attorney fees to settle the ACLU's multi-year litigation to remove the Boy Scouts from the city's Balboa Park.

The ACLU collected some \$500,000 in attorney fees in the famous Judge Roy Moore "Ten Commandments Case" in Alabama.

Chicago Schools paid the ACLU \$90,000 to settle the ACLU's lawsuit to ban the Boy Scouts from those schools (which the schools did), and, in the same case, the ACLU is seeking even more money from the Department of Defense in its suit to ban the Boy Scouts from military bases and to stop DoD from assisting in the Boy Scouts Jamboree.

The ACLU has collected some \$63,000, so far, in its precedent-setting lawsuit to destroy the solitary cross at the Mojave Desert World War I Veterans Memorial.

There is absolutely nothing in the law to prevent the ACLU, or anyone else, from following the precedent of the Mojave Desert World War I Veterans Memorial case and filing lawsuits to remove religious symbols at other veterans memorials, including the 9,000 crosses and Stars of David at Normandy Beach and the 22 national cemeteries, and then to demand taxpayer-paid attorney-fee awards under the Civil Rights Act.

3. Can the ACLU sue me?

Support of pending legislation is not grounds for suit. By sticking to the facts and expressing your opinion in opposition to the acts of the ACLU or in support of the Public Expression of Religion Act, HR 2679, you are exercising your First Amendment right to free speech.

4. Some believe the ACLU does wonderful work in defending the civil rights of the downtrodden. Will passing this legislation prevent them from this work?

No. Passage of the Public Expression of Religion Act, H.R. 2679 (PERA), does nothing to stop the ACLU from bringing any litigation it wishes, including cases under the Establishment Clause.

All PERA does is withdraw the authority of judges to award attorney fees under 42 U.S. Code Section 1988, in Establishment Clause cases only. PERA does not affect any other kind of civil rights case.

In short, the ACLU can continue to bring such cases, but it will have to pay its own way, which is the American rule (i.e., that each party pays its own attorney fees).

5. The ACLU claims it does not accept government money. Is that true?

It is deceptive.

It is true that the ACLU does not seek or accept grants or other funds from government agencies in the executive branch.

However, it seeks and receives millions of dollars every year from the judicial branch in the form of taxpayer-paid attorney-fee awards granted by lawyers sitting as judges under Title 42 U.S. Code, Section 1988 in Establishment Clause cases.

Further, ACLU has sought, sometimes with success, to obtain governmental funds under state Interest On Trust Accounts (IOTA) statutes.

6. If PERA passes in the House, what else needs to happen?

If PERA passes the House, we must work equally hard to have sponsors in the Senate, to move the Senate bill out of the Judiciary Committee, and to have it passed by the Senate.

The time to start working on the Senate is now. We all should be contacting our respective senators, as well as our representatives in the House, to voice our support for adoption of PERA.

7. What if PERA does not pass in this Congress?

If PERA does not pass this year, we must escalate our efforts to ensure passage in the succeeding Congress.

Rep. John Hostettler (R-Ind.), principal sponsor of PERA, submitted a version of PERA in the 108th Congress. He publicly has credited the support of The American Legion for PERA in this Congress as the reason for believing this critical bill will become law.

If PERA does not pass in the 109th Congress, we must maintain our resolve and work even harder to gain its adoption as the law of the land.

PERA is now a cause of The American Legion.

We can, we should, and we must win this battle.

8. Are there other organizations involved in this movement to pass PERA?

Definitely. There is a groundswell of protest and support for PERA, H.R. 2679, as Americans become aware that the ACLU has been receiving millions of dollars in taxpayer-paid attorney-fee awards from judges in Establishment Clause cases.

An Internet search reveals multiple organizations fighting back against the ACLU. However, The American Legion remains at the forefront as the nation's largest veterans organization.

9. Can I, my post, unit, or squadron make a difference? Besides calling my Congressman, what else can I do?

You, the individual American Legionnaire, Auxiliary or SAL member, can make a difference. Politicians listen when people speak. Every voice counts, and the politicians are counting. That is a surety. So, every single individual, post, unit or squadron can make a difference.

Let your representatives in the House and Senate know that you support PERA. Every post, unit or squadron should let them know that a position has been taken in support of PERA.

Request that your representatives in the House and Senate become co-sponsors or explain to you why they will not do so. Tell them you need to know so you can fully inform your members of why your representative or senator supports using tax-dollars for attorney-fee awards to the ACLU and others in Establishment Clause cases in which there is no real injury, other than taking offense at a religious symbol, and where there are no actual attorney fees.

There are many, many actions that individuals, posts, units and squadrons can carry out in support of our American Legion policy in support of PERA. This booklet provides the tools you need to energize your community to act for American values.

10. How do I respond to those who say the ACLU is just protecting the Constitution?

There is a simple response: If all the ACLU is doing is just protecting the Constitution, then it should not be seeking taxpayer-paid attorney fees in Establishment Clause cases when it in fact has no actual attorney fees.

The ACLU, if it is truthful in posturing itself as an organization interested only in protecting the Constitution as a public interest organization, should not be enriching itself by attorney-fee awards at \$350 per hour or more, when it does not pay or incur such attorney fees in fact.

Indeed, the ACLU should be joining the The American Legion in calling for the passage of PERA to prevent the exploitation of the Civil Rights Attorney Act, to profit by attorney-fee awards in Establishment Clause cases when the Civil Rights Act was intended to benefit indigent civil rights victims.

11. How do I respond if someone says they do not want to support PERA because it violates “separation of church and state” in the Constitution?

First, PERA has nothing to do with “separation of church and state.”

It has everything to do with stopping the abuse by the ACLU and other organizations in seeking taxpayer-paid attorney fees, the abuse by like-minded judges in awarding attorney fees to the ACLU, or anyone else in cases attacking our religious heritage and memorials.

There is nothing in PERA to prevent the ACLU or anyone else from filing Establishment Clause cases or arguing “separation of church and state” in those cases. It only stops those parties from profiting from those cases.

The Constitution is not a cash cow to be milked by avaricious lawyers, including the ACLU, for profit. Taxpayers should not be compelled to pay attorney-fee awards to the ACLU through court orders when the ACLU has no actual attorney fees and when taxpayers are unrepresented.

PERA, therefore, prevents “taxation without representation,” and does not prevent the filing of Establishment Clause lawsuits nor violate “separation of church and state” in any manner.

Second, although Americans have been conditioned to believe that the words “separation of church and state” are in our Constitution, they are not. They existed only in the Constitution of the United Soviet Socialist Republic, as Article 124, until the Communist regime’s collapse in 1991.

Third, the Founding Fathers never used that phrase or concept in the Constitutional Convention in creating our Constitution.

Fourth, the phrase “a wall of separation between church and state” is not taken from any official governmental document. Rather, Thomas Jefferson used the metaphor in a letter in 1802 to Baptists in Danbury, Connecticut in which Congregationalism was the “established religion of the State,” to assure them that they would be free to exercise their religion. He did not include it in the Declaration of Independence nor urge its inclusion in the Constitution, by article or amendment.

Fifth, no court used Jefferson’s metaphor of “a wall of separation between church and state” as a constitutionally mandated doctrine until 1947, when Supreme Court Justice Hugo Black quoted Jefferson’s metaphor in the Establishment Clause case of *Everson vs. Board of Education of Ewing Township*.

Sixth, Jefferson himself never used the concept or the phrase in any official document, including in his eight years as the third president of the United States.

Thus, no one should be sidetracked from supporting PERA by any invocation of the phrase “separation of church and state,” as PERA does not affect it in any way.

POINTS OF ACTION

- Appoint a committee to spearhead this project. Be sure to include the second vice commander, Americanism chairman and your public relations officer.
- Committee assembles a plan and reports to the executive committee for approval.
- Committee chair presents the plan at general membership meeting.
- Commander, president assigns taskings for community outreach.
- Contact community leaders, assemble community council and hold initial meeting.
- Set news conference to announce the information campaign initiative.
- Reproduce and distribute flyers announcing town hall meeting or just the issue and the solution (H.R. 2679).
- Hold town hall meeting with DVD and discussion. Petitions.
- Send letters to clergy in area.
- Public relations officer contacts media to arrange radio, television and print media interviews, provide PSAs and market the DVD.
- Send letters to the leaders of area civic and veterans groups offering a speaker on the issue.
- Write a letter to the editor.
- Write an op-ed. Offer to weekly newspaper.
- Petition drive publicity.
- Petition project chairman and committee assigned. Acquire venues and volunteers.
- Contact chamber of commerce for printed insert in mailings.
- Invite Congressman to address post/unit/squadron meeting on the issue. Make The American Legion position clear. Thank him or her if a commitment to co-sponsor and vote for PERA is obtained. Otherwise, inform him or her that all stops will be pulled out to garner maximum public support for PERA.
- Develop plan for both your U.S. senators when companion legislation is introduced in that chamber.
- Collect and present all petitions for PERA to Congressman. Pitch media coverage of event at the Congressman's district office.

MESSAGE POINTS

America's religious history and heritage are threatened.

- Our flag, our Pledge of Allegiance, our Boy Scouts, our veterans memorials, our religious history and heritage - our American values all are under attack by activists. The courts are awarding the ACLU millions of dollars in taxpayer-paid "attorney-fee awards" authorized under 42 U.S. Code Section 1988.
- Most Americans don't know the ACLU receives attorney fees when they challenge our values and heritage.
- While the law was written with good intentions - to ensure legitimate victims of civil-rights violations could obtain representation - it has been exploited by the ACLU in First Amendment "establishment of religion clause" cases. In these cases, there are, in fact, no attorney fees incurred by the ACLU or its plaintiffs. ACLU profits from these cases at taxpayer expense.
- Elected and appointed officials at the local, state and federal levels have literally backed away from the ACLU in fear of enormous attorney fees being imposed by unelected judges not answerable to the American taxpayer.
- The American Legion adopted Resolution 326 at its 2004 National Convention, calling for Congress to amend the law and end judges' authority to award attorney fees in cases brought "to remove or destroy religious symbols." At the 2005 National Convention, The American Legion adopted Resolution 139 that further defined action to be taken by Congress by amending the Equal Access to Justice Act, 28 U.S. Code 2412 to limit Establishment Clause cases to declaratory and injunctive relief only and not attorney fees in those cases. We need to stop the ACLU from using the courts to destroy American values at taxpayer expense.
- The bottom line: Stopping the funding should remove or seriously decrease the incentive of the ACLU to pursue self-enriching suits against American values.

LETTERS TO THE EDITOR

Dear Editor:

I am a veteran and a member of The American Legion Post/Unit/Squadron _____ in _____. I have been a member of this community since _____.

I write to express my opinion that it is an outrage that judges are giving the ACLU thousands of dollars in attorney fees that taxpayers have to pay in lawsuits the ACLU brings against the Boy Scouts, the public display of the Ten Commandments and other symbols of our American religious heritage, including those suits against veterans' memorials.

I have read about such lawsuits, but had no idea that I and other taxpayers were actually paying the ACLU to bring them through these attorney-fee awards given by judges.

The American Legion has called on Congress to close this loophole and withdraw the authority of judges to award attorney fees to the ACLU, or anyone else, in such lawsuits under the Establishment Clause.

The Public Expression of Religion Act, H.R. 2679, does just that. I urge Congressman _____ [from your district] and all members of our community to support this reform.

We need every tax dollar we can get for our community for police, fire, health and other needs. Judges are awarding thousands of dollars in attorney fees to the ACLU, at a reported \$350 per hour, without any proof that the ACLU has incurred any actual attorney fees in the case.

If the ACLU must bring these lawsuits to destroy the Boy Scouts, crosses, Stars of David, and Christmas displays, it should at least have the decency to pay for them and not stick it to the taxpayers.

Dear Editor:

I recently learned that judges have been granting the ACLU millions of dollars annually, at taxpayer expense, in lawsuits under the Establishment Clause attacking the Boy Scouts, the public display of the Ten Commandments and other symbols of our American heritage, even at veterans' memorials for the first time.

As an American, a veteran and a member of The American Legion, I believe this is nothing more than "taxation without representation." Very few people I have talked to in our community even knew that this was happening.

The American Legion has called on Congress to amend Title 42 U.S. Code Section 1988, to withdraw the authority of judges to award attorney fees to the ACLU, or anyone else, in such lawsuits, especially when the ACLU offers no proof that in fact it has any actual attorney fees.

The Public Expression of Religion Act, H.R. 2679, does just that. I urge Congressman _____ [from your district] and all members of our community to support this reform.

If the ACLU must bring these lawsuits to destroy the Boy Scouts, crosses, Stars of David and Christmas displays, it should at least have the decency to pay for them and not stick it to the taxpayers.

Dear Editor:

The Public Expression of Religion Act, H.R. 2679 (PERA), is pending before the House Judiciary Committee.

PERA is a necessary reform. It would withdraw the authority of judges to award attorney fees, at taxpayer-expense, to the ACLU, or anyone else, in Establishment Clause cases against the Boy Scouts and the public display of the Ten Commandments or other symbols of our American religious history and heritage, including at veterans memorials.

The American Legion is strongly supporting this reform. The Legion points out that the ACLU is being granted attorney fees at about \$350 per hour, when in fact it has no actual outside attorney fees as its lawsuits are done by staff or volunteer attorneys.

As a member of The American Legion family and of this community, I urge all members of the community to support PERA, and to contact our representatives in the House and both Senators to urge them to sponsor PERA or to explain why they support judges in effect taxing us to pay the ACLU to bring these lawsuits.

This is “taxation without representation,” and we should put an end to it through passage of PERA, H.R. 2679.

(Name, address, daytime telephone number)

(POST LETTERHEAD)

Note: This document is downloadable from www.legion.org

FOR IMMEDIATE RELEASE

VETERANS LAUNCH CAMPAIGN TO CLOSE ACLU LOOPHOLE

CITY (Month day, year) – The American Legion in (CITY) has launched an area-wide information campaign to close a legal loophole that allows the American Civil Liberties Union to collect millions of tax dollars in suits against religious symbols, including veterans’ memorials.

“Our objective is to let everyone in our area know about this loophole in the law that can be fixed if we all act now,” said American Legion Post ### Commander (FULL NAME). “A bill now in Congress will prevent the ACLU and other organizations from preying on public officials and citizens who publicly express their religious faith,” (LAST NAME) said.

The Public Expression of Religion Act of 2005 (PERA – H.R. 2679) is pending passage in the 109th Congress. (LAST NAME) is urging everyone to call Congressman (FULL NAME) and urge him/her to co-sponsor and vote for PERA, which would free state and local officials from the fear of extortion-like threats of lawsuits for monetary damages and attorneys’ fees arising from a public official’s expression of religion.

Nationally, The American Legion is working to pass the bill following several suits filed by the ACLU against veterans memorials and the Boy Scouts of America. (LAST NAME), who is heading the campaign here in (CITY), believes that when the law is corrected and the incentive of taxpayer awards to the ACLU are cut off, the number of self-enriching suits against American values will be stopped or seriously decreased. “Unless we are successful, no religious symbol will be safe including the crosses and Stars of David that mark the final resting place of our World War II heroes at Normandy,” (LAST NAME) said.

– MORE –

Loophole 2-2-2-2-2

“The 1976 Civil Rights Attorney’s Fee Awards Act was much needed legislation, but in recent years, certain groups have abused the congressional intent of this public law in ‘Establishment Clause’ lawsuits against the Boy Scouts of America, the Ten Commandments, and now veterans’ memorials,” said Thomas L. Bock, National Commander of The American Legion. “And it is time to fix it!

“Exorbitant attorney fees awarded by courts to be paid by American taxpayers has become the newest ‘Sword of Damocles’ strategically employed by organizations like the American Civil Liberties Union (ACLU) to coerce settlements by cities, counties, states and large organizations like the Boy Scouts of America and the Department of Defense by suits and threats of lawsuits against any public expression of America’s religious history, heritage, and values,” Bock said. “When out-of-court settlements are more cost effective than the judicial process, then the system is clearly broken.”

“Each time the threat of outrageous attorney-fee awards by courts drives an out-of-court decision, Lady Justice receives another ‘black-eye’ and justice is defiled,” added (LAST NAME).

“When the mere threat of attorney’s fee is so severe that large organizations fear the consequences, then imagine the power and chilling effect it has on local elected officials faced with the threat of court-ordered, taxpayer-paid attorney fees if they do not surrender to ACLU demands to cease sponsorship of Boy Scouts, or to destroy religious symbols like the Ten Commandments,” (LAST NAME) added.

The American Legion actually holds the charters on over 2,600 Boy Scout units and supports thousands more.

“Using taxpayers’ dollars to pay these court-ordered attorney fees, especially when attacking established, traditional American values, is absurd,” Bock said. “The list of victims continues to grow: Los Angeles County, the cities of San Diego and Redlands in California,

– MORE –

Loophole 3-3-3-3

the school boards in Chicago, Illinois, and Portland, Oregon, Department of Housing and Urban Development, Department of Defense, Ten Commandments cases in Kentucky, Texas and Alabama, and even a veterans' memorial in the Mojave Desert. Who will be the next victim?

“Enough is enough!” Bock added. “The American Legion fully supports legislation introduced by Representative John Hostettler, the Public Expression of Religion Act (PERA). It will remove the chilling effect on constitutionally protected free expression of religion in public areas by ending court-ordered attorney fees, or damages, in Establishment Clause cases – but only those cases. It does not bar anyone from filing an Establishment Clause lawsuit. It merely follows the general American rule that each party bears its own attorney fees in lawsuits, and removes the threat of court-ordered attorney fees or damages in Establishment Clause claims only. No other civil rights claim will be affected by this legislation.

“That’s why we’ve launched the ‘educate and activate’ campaign here in (CITY). We hope to reach every citizen in town and urge them to call, write and visit Congressman (LAST NAME) to vote for PERA. We believe the Public Expression of Religion Act will restore sanity to the judicial process. With this bill, we take a giant step to stop an abuse of the Civil Rights Acts,” (LAST NAME) said.

Founded in 1919, the 2.7 million-member American Legion is the nation’s preeminent service organization for veterans of the U.S. armed forces, including active duty, National Guard and Reserves, and their families. A powerful voice for veterans in Washington, The American Legion drafted the original GI Bill and was instrumental in establishing the agency that today is the federal Department of Veterans Affairs.

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Media Contacts: Name and telephone number, including cellular.

A high-resolution photo of Cmdr. Tom Bock is available online at **www.legion.org**.

A complete array of fill-in-the-blank media materials are available on The American Legion website at **www.legion.org** - Click on public relations. An article for marketing to community newspapers, a short speech, media advisories, and suggested event information can be downloaded for local use.

TAKING ACTION

The Legislative Solution

Preserving America's Values and Traditions

Legion Supports Public Expression of Religion Act, HR 2679

On May 26, 2005 Representative John Hostettler (IN) introduced H. R. 2679, the Public Expression of Religion Act of 2005 or abbreviated as “PERA”. The bill seeks to amend the federal law that threatens constitutionally protected expression of religion by state and local officials resulting from the threat of potential litigants seeking monetary damages and attorney fees. In lieu of attorney fees under Title 42, U.S. Code, Chapter 1988, a civil action brought under 42 U.S. Code 1983 alleging a violation of the Constitution’s establishment of religion clause would be limited to the sole remedy of injunctive relief and not reimbursement of attorneys’ fees.

In 1976, Congress determined that in many cases arising under civil rights laws, the citizen who must sue to enforce the law has little or no money with which to hire a lawyer. So Congress legislated the Civil Rights Attorney’s Fees Award Act. This law was designed to encourage individual plaintiffs injured by civil rights violations to seek judicial relief. Knowing civil rights enforcement depended heavily upon private enforcement, fee awards were allowed as a vital remedy for private citizens, if they are to have a meaningful opportunity to challenge unfair policies. Attorney-fee awards, although discretionary with a trial judge, are usually approved for the prevailing party. However, the American Civil Liberties Union (ACLU) has twisted this civil rights legislation to achieve results Congress never intended.

Nationwide we are seeing the chilling results of this assault on religion. For example, Los Angeles County supervisors decided to remove the tiny gold cross on the county seal rather than defend it against a threatened ACLU lawsuit. The ACLU argues that the inclusion of a cross on the official government seal reflects “an impermissible endorsement of Christianity.” Because of that, the ACLU says, it violates 1st Amendment guarantees of separation of church and state. In a letter to the supervisors, the archbishop of the Roman Catholic Archdiocese of Los Angeles contended the cross recalls the importance of Catholic missions in the county’s heritage. The cross, along with other images symbolizing Los Angeles history on the seal, have adorned the county seal since 1957.

Using similar tactics, the ACLU received \$500,000 in fees in the Judge Roy Moore Ten Commandments case in Alabama. In *Buono, et al, v. Norton, et al*, the ACLU stated that the presence of an eight-foot tall Latin cross on federally owned land in the Mojave National Preserve violated the U.S. Constitution's Establishment Clause. Accordingly, the cross erected in 1934 to honor war veterans, is now covered with a large canvas as appeals go forward. To date, the ACLU has received over \$63,000 in attorney fees on this case. In *Paulson v. City of San Diego*, the U.S. Ninth Circuit Court of Appeals held that when the city of San Diego sold public land containing a cross on it, the city could not favor a buyer with the sectarian purpose of cross preservation. The city owned Mt. Soledad, a 170-acre site dedicated to public use in 1916 on which stands a 143 foot-tall Latin cross, dedicated in 1954 as a tribute to veterans of WWI, WWII and the Korean War. While total costs are not known, it is known that when the city of San Diego filed a petition to the U.S. Supreme Court, the city had to pay over \$18,000 in public funds as court costs to the ACLU plaintiffs.

The American Legion supports the Public Expression of Religion Act (PERA) H.R. 2679. This country was founded by men of profound religious belief. In fact, the first sentence of the First Amendment to the Constitution states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." All members of The American Legion family should contact their congressional members and urge them to become co-sponsors of H.R. 2679.

The following is a sample message you can send to your Congressman/Congresswoman. Feel free to personalize and edit according to your preferences.

Dear Congressman/Congressman _____:

I am sending this to strongly urge you to sign on as a co-sponsor to H.R. 2679, the Public Expression of Religion Act of 2005.

In 1976, Congress determined that in many cases arising under civil rights laws, the citizen who must sue to enforce the law has little or no money with which to hire a lawyer. So Congress legislated the Civil Rights Attorney's Fees Award Act. This law was designed to encourage individual plaintiffs injured by racial discrimination to seek judicial relief. Knowing civil rights enforcement depended heavily upon private enforcement, fee awards were allowed as a vital remedy for private citizens, if they are to have a meaningful opportunity to challenge unfair policies. Attorney-fee awards, although discretionary with a trial judge, are usually approved for the prevailing party. However, the American Civil Liberties Union (ACLU) has twisted this civil rights legislation to achieve results Congress never intended.

I ask you to support this bill and end the outrageous exploitation of the Civil Rights Act by the ACLU in seeking and receiving millions of dollars in judge-ordered, taxpayer-paid attorney fees in Establishment Clause cases. It is the threat of such judge-ordered fees that has terrorized local elected officials into surrendering to the ACLU's demands to remove religious symbols such as crosses from veterans memorials, city logos, police badges and anywhere where the rich religious heritage of our nation flourishes.

I ask you to place your immediate attention and fullest influence behind efforts to amend Title 42 and to stop the cash flow to the ACLU in its tracks. As a veteran, I fear for the crosses and Stars of David that proudly mark the resting place of heroes at Normandy. Unless the funding rug is pulled out from under the ACLU in these self-enriching cases, nothing is sacrosanct. Nothing will be safe.

More and more of your constituents will soon learn the ACLU adds insult to injury by collecting taxpayer dollars in the process of attacking the moral values and religious heritage of our nation. Rest assured, there is going to be a groundswell of 'We the People' united to stop this practice dead in its tracks.

I ask you to "take point" on this along with Rep. John Hostletter and co-sponsor and vote for the Public Expression of Religion Act of 2005, H.R. 2679.

Sincerely,

Name
Address
City, State, Zip
Telephone Number

- Send your message by e-mail from **www.legion.org**. Under the Legislative category on the left side of the page click on “Legislative Action Center” and follow the instructions to send an e-mail to your congressman.
- To find the telephone numbers (voice and fax) and mailing addresses of your congressman go to: <http://www.congress.org/congressorg/home/>
- Consult your local phone directory in the blue pages under U.S. Government for the district telephone numbers (phone and fax) of your Congressman’s office at home.
- When calling, a simple message will do if a staffer is taking messages: “Please tell Congressman XXXXXX to vote for and and co-sponsor H.R. 2679 – The Public Expression of Religion Act of 2005. It is very important that he/she stands up for the attack on American values. Thank you.”
- If your Congressman is already a co-sponsor, thank him or her. Ask that every effort be made to influence his or her fellow representatives to do the same.
- If your Congressman opposes the bill, ask him or her to reconsider. Explain that this issue is important to you and your family and that there is a growing movement in this country to let all Americans know that their tax dollars are being misused to fund the undermining of their values and heritage.
- Share this information and urge everyone you know to browse <http://www.congress.org/congressorg/home/> and take action by contacting his or her elected representative.
- When a similar bill is introduced in the U.S. Senate, follow the same procedure with both of your U.S. senators.

PETITION TO

Member of Congress

**To vote for and co-sponsor H.R. 2679,
the Public Expression of Religion Act (PERA)**

We fully support H.R. 2679 and as your constituents, we call on you to vote for and become a co-sponsor of the Public Expression of Religion Act (PERA) to stop the abuse of the Civil Rights Act and related federal laws by the ACLU and other groups in litigation attacks on the Boy Scouts, Ten Commandments and other public expressions of America's religious history and heritage, including veterans memorials. As taxpayers and your constituents, we are outraged that these groups have sought and received taxpayer-paid attorney fees from judges in Establishment Clause lawsuits:

<u>NAME</u>	<u>Address</u>	<u>Signature</u>	<u>Phone</u>	<u>Veteran?</u>
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FEEDBACK

Share your Success of Educating and Activating

Congratulations!

You've educated and activated your community to support the Public Expression of Religion Act.

Please fill out the information on the last page, fold it so that the self-addressed information on the back can be processed by the U. S. Postal Service. The information you provide will help shape a successful national legislative effort.

Feedback Reply Form

Post/Unit/Squadron Name and Number

Project Coordinator

Phone#

E-mail Address

Commander/President/Commander

Street Address

City, State, ZIP

Activities held to promote PERA

Who is your district Congressional Representative?

Did he or she commit to:

Voting for PERA? YES NO
Co-sponsoring PERA? YES NO

Did your post/unit/squadron contact both U.S. Senators? YES NO

Did they commit to supporting a similar version of PERA? YES NO

What other support materials would have been helpful?

Thank you for your service to God and country!

Please follow folding and mailing instructions on back.



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 428 INDIANAPOLIS, IN

POSTAGE WILL BE PAID BY ADDRESSEE



THE AMERICAN LEGION
PUBLIC RELATIONS DIVISION
P.O. BOX 1055
INDIANAPOLIS IN 46209-9910



fold here

To mail:

Remove back cover.

Fold at dotted line.

Tape shut (do not staple).

Drop in mail.