

Date of Hearing: April 11, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2253 (Grove) – As Amended March 18, 2016

SUBJECT: Special interest license plates: In God We Trust — America, Inc.

SUMMARY: Requires the Department of Motor Vehicles (DMV) to design and make available for issuance special interest license plates, in consultation with In God We Trust – America, Inc.

EXISTING LAW:

- 1) Prohibits DMV from accepting an application for participation in a special interest license plate program and from issuing special interest license plates for a new program.
- 2) Establishes requirements for specialized license plates issued by DMV, including that a specialized license plate must have a state agency sponsor and a design or message that publicizes or promotes a state agency, or the official policy, mission, or work of a state agency.

FISCAL EFFECT: Unknown

COMMENTS: In 2004, the United States District Court for the Eastern District of California ruled that the process to create new special interest license plate programs was unconstitutional, as the Legislature approved some plate designs sponsored by private non-profit entities and rejected others, without using any standardized or objective criteria for those decisions. In response to the court decision, AB 84 (Leslie), Chapter 454, Statutes of 2006, established the current specialized license plate program to provide a forum for government speech that promotes California's state policies. AB 84 prohibited DMV from accepting an application for participation in a special interest license plate program and from issuing special interest license plates for a new program. This excluded private organizations from seeking special interest license plates as a forum for private speech, and thus addressed the court's objection. The current specialized license plate program permits a state agency to initiate the development and sponsorship of a specialized plate, and the revenue the plate generates must publicize or promote a state agency, or the official policy, mission, or work of a state agency.

In 2015, the United States Supreme Court ruled that a state's specialty license plate designs constitute government speech and that the state is entitled to freely choose a plate's design and, in doing so, does not implicate the free speech rights of private persons.

This bill would revive the special interest plate program by requiring DMV to design and issue special interest plates in consultation with a specific non-profit organization.

Committee concerns: Despite the Supreme Court ruling, DMV is still federally enjoined from approving any new special interest license plate under the process for creating special interest license plates set out in California law. Although that process remains in existing statute, existing law also prohibits DMV from accepting an application for participation in a special interest license plate program and from issuing special interest license plates for a new program. This bill would require DMV to create a new special interest plate notwithstanding that statutory

prohibition. However this bill cannot override a federal injunction. If DMV were to create the plate required by this bill, it would be in violation of that injunction.

Furthermore, by reviving the defunct special interest license plate program, this bill could once again put the Legislature in the position of picking and choosing between messages promoted by various non-profit organizations. While the Legislature currently picks and chooses between messages promoted by state agencies through the specialized license plate program, all the messages it picks are already endorsed as government speech by virtue of being related to the official policy, mission, or work of existing government entities. This bill could set a precedent for endorsing certain private speech as government speech by identifying messages that would only be considered government speech because they appear on license plates, and not because they reflect any official activity of an existing government agency.

Double referral: This bill will be referred to the Assembly Judiciary Committee should it pass out of this committee.

Previous legislation: AB 84 (Leslie), Chapter 454, Statutes of 2006, prohibited DMV from creating any new plates under the special interest license plate program and established the current specialized license plate program with specific requirements.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

Planned Parenthood Affiliates of California

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