

Baptists offer varied views on COVID-19 relief

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WASHINGTON—Federal COVID-19 relief for nonprofit organizations—presumably including churches—likely would pass muster constitutionally but raise understandable concerns about the church-state separation and the advisability of financial entanglements with the government, a Baptist constitutional attorney asserted.

However, a Southern Baptist ethicist questioned whether government-backed loans for churches—even if forgiven—really amount to government entanglement.



Holly Hollman

Holly Hollman, general counsel for the Baptist Joint Committee for Religious Liberty, and Russell Moore, president of the Southern Baptist Convention’s Ethics & Religious Liberty Commission, took somewhat different views regarding COVID-19 relief in articles on their agencies’ websites.

“As Baptists, we don’t and shouldn’t look first to the government for how to overcome most difficulties. Our commitment to the separation of church and state is rooted in our theology and our history, neither of which is changed by government efforts to provide relief in a time of crisis or

shifting standards of constitutional law,” Hollman wrote in an article posted on the [BJC website](#).

Baptists affirm principles of church-state separation “not primarily because of legal requirements, but because of our theological commitments,” Hollman insisted.

“The benefits of separation between religion and government for religious liberty have been undeniable, and we believe the risks of eroding that separation are significant,” she wrote.



Russell Moore

Moore likewise affirmed the traditional Baptist commitment to separation of church and state and agreed government funding for churches or ministries should be opposed.

However, he questioned whether government-backed small-business loans for nonprofits might be seen more as “a safety net for banks” than a “bailout of churches.”

“The government’s role is simply to guarantee to the banks these loans, in case of default. That does not privilege or penalize any religion in any way different from any other entity,” Moore wrote in an article on the [ERLC website](#).

Families First Coronavirus Response act examined

In her article, Hollman analyzed two laws enacted after the COVID-19 stimulus package—the [Families First Coronavirus Response Act](#) and the [Coronavirus Aid, Relief and Economic Security Act](#). Both laws apply to nonprofits, and several members of Congress were on record as saying they intended for churches to be included.

“Neither the statutes nor any implementing regulations to date expressly cover or exclude churches,” Hollman wrote. “Both churches and other employers should be aware of new requirements they must meet in order to comply and potentially utilize these new federal programs for the benefit of their employees.”

FFCRA extends coverage of the Family Medical Leave Act by temporarily requiring employers “engaged in commerce,” including those with fewer than 50 employees, to offer paid family and medical leave and paid sick leave to all employees for reasons related to COVID-19, she explained.

“‘Engaged in commerce’ is a broad standard that could include many churches,” Hollman wrote. “Even if a church operates under a more stringent state-law standard or voluntarily provides benefits similar to FMLA, this law could create a new mandate for churches. This new government requirement on employers is intended to be refunded by a payroll tax credit against the amounts due from the employer for paid FMLA and paid sick leave.”

Hollman raised no great caution about church-state issues related to FFCRA.

“A payroll tax credit to cover a new, quickly implemented government mandate of paid sick leave, for example, does not raise the same concerns

as general economic assistance to a church,” she said.

CARES Act loan program analyzed

The CARES Act includes a \$349 billion Paycheck Protection Program—a temporary expansion of a small-business loan program to help both businesses and nonprofits with 500 or fewer employees, she explained.

“Government-backed loans of up to \$10 million are available to cover expenses such as payroll, mortgage payments, rent and utilities for up to two months. These loans will be forgiven, in whole or in part, for employers who keep their employees on the payroll or rehire by June 30,” Hollman wrote.

The program probably is within bounds constitutionally but could create unintended consequences, she noted.

“With the information available now, we think it unlikely that the federal assistance provided in the Paycheck Protection Program is an unconstitutional establishment of religion. The purpose of the program is to maintain employment during an economic and health crisis in the country, not to advance or prefer religion. Nor are churches preferred in any way over other nonprofits. The assistance is not provided through a government grant program, but rather through bank loans that are forgivable in whole or in part,” Hollman wrote.

“Still, depending on its specific terms and application, a general loan forgiveness program may raise unintended practical problems for a church. Qualifying for the payroll tax credit or government-backed loan will inevitably require some form of certification regarding the church’s financial condition and some accounting for the proper use of taxpayer funds.

“Other government requirements to ensure accountability may conflict with a church’s mission. For example, the application includes two pages of boilerplate language that applicants agree to, including references to requirements that prohibit religious discrimination in how the applicant provides goods, services and accommodations.”

Moore not as concerned

Moore offered fewer concerns about the government-guaranteed loans for churches.

“The government, in this case, recognizes the precarious state of the economy and is seeking to get ahead of possible defaults and foreclosures and skyrocketing unemployment. While other actions may come to light that would be different, so far what we can see is not in any way a ‘bailout’ of churches but a safety net for banks, to incentivize banks to continue the flow of money so that people are not unemployed,” he wrote.

For legitimate public safety and public health reasons, the government is “essentially shutting down almost all of normal American life,” Moore noted.

“The CARES Act is a way to mitigate this in order to spare the public and governmental agencies from overwhelming the system that we have. This, in my mind, would be similar to a government reimbursing a business or a nonprofit for taking land in an eminent domain case,” he wrote.

“Almost no one would see such reimbursement as an endorsement of the views represented by that business or nonprofit, much less as a public-private partnership. This is, in my view, a similar situation.”

Moore dismissed concerns that if churches take out the government-guaranteed loans, it could invite the government to dictate how the church

carries out its ministries or establishes its policies.

“We have no indication that such would be the case, and, were any future governing authority to seek retroactively to restrict the First Amendment on such grounds, I believe such a move would be successfully repudiated in court,” he wrote.

“Right now, a church that catches fire would call the local fire department. This is not ‘government support’ of that church. It’s the government’s interest in keeping people from being killed in a conflagration. A similar dynamic is at work here. The government would no more be entangled in your church’s ministry as a result of this than your bank is now.”

Other aspects of the CARES Act are less controversial. For example, it includes increased incentives for charitable giving in 2020, providing a new deduction of up to \$300 for all taxpayers, including those who take the standard deduction. Those who itemize deductions will be able to deduct contributions of up to 100 percent of their adjusted gross income.

In her article, Hollman emphasized she neither was seeking to encourage nor discourage churches regarding whether they should apply for federal assistance. Rather, she wanted to help church leaders make informed decisions.

“As every church responds to the crisis, decisions should be made in prayerful consideration, relying on the best information available, consistent with each congregation’s needs and theological commitments,” she wrote.

Additional resources

For more information on how federal coronavirus relief bills affect nonprofits, click [here](#).

For more information on the Families First Coronavirus Response Act, click [here](#) and [here](#).

For more information on the CARES Act and its Paycheck Protection Program, click [here](#).