

STORAGE NAME: h0009s2z.edk

DATE: June 17, 1999

**\*\*FINAL ACTION\*\***

**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
EDUCATION K-12  
FINAL ANALYSIS**

**BILL #:** CS/CS/HB 9

**RELATING TO:** Patriotic programs in school districts

**SPONSOR(S):** Committee on Judiciary, Committee on Education K-12, and Representative Harrington

**COMPANION BILL(S):** SB 330

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) EDUCATION K-12 YEAS 9 NAYS 0
- (2) JUDICIARY YEAS 8 NAYS 0
- (3) EDUCATION APPROPRIATIONS (W/D)
- (4)
- (5)

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I. FINAL ACTION STATUS:

**PASSED BY THE LEGISLATURE - CHAPTER #99-276, Laws of Florida.**

On April 15, 1999, CS/CS/HB 9 was amended in the Senate on second reading. On April 26, 1999, CS/CS/HB 9 was passed as amended [YEAS 37, NAYS 0]. On April 28, 1999, the House concurred with the bill as amended [YEAS 115, NAYS 0].

The bill was presented to the Governor on May 24, 1999, and on June 8, 1999, was signed into law by the Governor.

II. SUMMARY:

This bill reinstates language that was repealed in 1997 by CS/HB 137 (Ch. 97-190, L.O.F.). The language was previously contained in s. 233.065, F.S., and prescribed specific rules regarding patriotic programs. The 1997 law created a new section of statutes, s. 233.0612, F.S., that generally authorized each school district to provide students with programs and instruction designed to encourage patriotism and greater respect for country.

This bill authorizes district school boards to adopt specific rules to require patriotic programs in order to encourage greater respect for the U.S. government, the national anthem, and the flag. It authorizes school boards to require that students and other civilians, such as school visitors and staff, stand at attention, with men removing any headdress, when the national anthem is being played. It authorizes requiring that the pledge of allegiance to the flag be rendered by students in a prescribed manner, that is, recitation of "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all" with the right hand placed over the heart, at the beginning of the school day in every public school within the district.

Each student must be informed by a posted notice in a conspicuous place that the student has the right not to participate in reciting the pledge. Students may be exempted from the requirement to recite the pledge upon written request by a parent or guardian.

The bill amends s. 256.11(2), F.S., to provide exceptions to the penalty for willful failure to display the flag in a public auditorium.

The effective date of the bill is July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Patriotic Pledge**

Existing statutes authorize school districts to provide programs and instruction to encourage patriotism and greater respect for country, but do not specifically address procedures to be followed when the national anthem is played or with regard to saluting the flag.

**Public Auditoriums; Display of the United States Flag**

Section 236.11, F.S., provides a penalty for the willful failure to display the flag in a public auditorium.

B. EFFECT OF PROPOSED CHANGES:

**Patriotic Pledge**

Unless specifically exempted, school districts could require that students, other civilians such as school visitors, and staff stand at attention with males removing hats, caps, or other forms of headdress, while the national anthem is played in public schools. Districts could also require that the pledge of allegiance be recited, by students standing with their right hands over their hearts, each morning in public schools unless the student is otherwise exempted. Since these provisions are already authorized more generally in s. 233.0612, F.S., the effect is expected to be minimal.

Each student must be informed by a posted notice in a conspicuous place that the student has the right not to participate in reciting the pledge. Students may be exempted from the requirement to recite the pledge upon written request by a parent or guardian.

**Public Auditoriums; Display of the United States Flag**

The bill amends s. 256.11(2), F.S., to provide exceptions to the penalty for willful failure to display the flag in a public auditorium. The exceptions provided are for cleaning, repair, or replacement of the flag.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill refines statutory authority regarding patriotic programs and makes specific reference to the protocol for students, school visitors, and staff standing at attention during the playing of the national anthem and saluting the flag.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

School districts must inform students by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

An agency/program is not eliminated or reduced.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/ associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

The bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The program does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 233.0655, F.S., is created under the bill. Section 256.11, F.S., is amended.

E. SECTION-BY-SECTION ANALYSIS:

**Section 1:** The bill authorizes district school boards to adopt specific rules to require patriotic programs in order to encourage greater respect for the U.S. government, the national anthem, and the flag. It authorizes school boards to require that students and other civilians stand at attention, with men removing any headdress, when the national anthem is being played. It authorizes requiring that the pledge of allegiance to the flag be rendered by students in a prescribed manner, that is, recitation of "I pledge allegiance to the flag of the United States of America and to the republic for

which it stands, one nation under God, indivisible, with liberty and justice for all” with the right hand placed over the heart, at the beginning of the school day in every public school within the district.

Each student must be informed by a posted notice in a conspicuous place that the student has the right not to participate in reciting the pledge. Students may be exempted from the requirement to recite the pledge upon written request by a parent or guardian.

**Section 2:** The bill amends s. 256.11(2), F.S., to provide exceptions to the penalty for willful failure to display the flag in a public auditorium. The exceptions provided are for the cleaning, repair, or replacement of the flag.

**Section 3:** The effective date of the bill is July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

The Judiciary Committee staff raised concerns about "standing" and "placing the hand," which appear to have been addressed by the Senate floor amendment requiring posted notice of the right not to participate.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute by Education K-12 removes the comma in the phrase "one nation, under God" so that the pledge of allegiance to the flag is in its original form.

The committee substitute by the Judiciary committee provides exceptions to the penalty for willful failure to display the flag in a public auditorium. The exceptions provided are for the cleaning, repair, or replacement of the flag.

The amendment adopted on the Senate floor requires that each student be informed by a posted notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

VIII. SIGNATURES:

COMMITTEE ON EDUCATION K-12

Prepared by:

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AS REVISED BY THE COMMITTEE ON JUDICIARY:

Prepared by:

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**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION K-12:**

Prepared by:

Staff Director:

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Patricia W. Levesque

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