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DATE: March 1, 2002

HOUSE OF REPRESENTATIVES
LIFELONG LEARNING COUNCIL
ANALYSIS

BILL #: CS/HB 885
RELATING TO: Declaration of Independence/Schools
SPONSOR(S): Council for Lifelong Learning and Representative(s) Melvin and others
TIED BILL(S):

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

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
- (2) LIFELONG LEARNING COUNCIL YEAS 15 NAYS 2
- (3)
- (4)
- (5)

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I. SUMMARY:

CS/HB 885 recognizes the last full week of classes in September as Celebrate Freedom Week in the state's public schools. The bill requires Celebrate Freedom Week to include instruction in each social studies class on the intent, meaning, and importance of the Declaration of Independence to our nation's history. To emphasize the importance of this week, public school principals and teachers are required to conduct an oral recitation by students of the following words of the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

The bill provides procedures for students who wish to be excused from participating in the recitation of the Declaration of Independence.

Proponents support this bill as a way to increase patriotism and awareness of the principles upon which our country was founded. Opponents assert that this is a mandate on teachers and principals.

This bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill creates more government because principals and teachers are required to conduct an oral recitation by students of part of the Declaration of Independence. This bill may increase individual freedom because the Declaration of Independence contains ideals of freedom, and personal significance. Awareness of these ideals may be beneficial to students.

B. PRESENT SITUATION:

The attack on America and its ideals on September 11, 2001, mandated that a war be declared against terrorism. Proponents of this bill assert that the strongest weapon in our arsenal is the firm American character informed by the reasoned principles of the Declaration of Independence.

Currently there is no law requiring students to orally recite the Declaration of Independence.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 885 requires that the last full week of classes in September be recognized in public schools as Celebrate Freedom Week. The bill requires that Celebrate Freedom Week must include at least 3 hours of appropriate instruction in each social studies class, as determined by each school district. This required instruction must include an in-depth study of the intent, meaning, and importance of the Declaration of Independence to our nation’s history.

To emphasize the importance of Celebrate Freedom Week, CS/HB 885 requires public school principals and teachers to conduct an oral recitation, at beginning of each school day or in homeroom during the last full week of September, by students of the following words of the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life, liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

The bill states that student recitation of this portion of the Declaration of Independence will serve to reaffirm the American ideals of individual liberty.

The bill also requires that if a student's parent requests in writing that his or her child be excused from the recitation, that student must be excused.

Proponents support this bill as a way to increase patriotism and awareness of the principles upon which our country was founded.¹ Opponents assert that this is a mandate on teachers.²

This bill takes effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

Please see "EFFECT OF PROPOSED CHANGES."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

IV. 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 to take action requiring the expenditure of funds.

¹ Phone conversation, sponsor's office, 1/31/02; statement of purpose within the bill.

² Phone conversation, lobbyist for the ACLU, 1/31/02.

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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Applicable Case Law

The First Amendment of the Constitution of United States provides, in part, that Congress shall make no law abridging the freedom of speech.³

In *West Virginia State Board of Education v. Barnette*, the West Virginia State Board of Education passed a resolution in 1941, the same year as the attack on Pearl Harbor, that required all teachers and students to salute the United States flag while reciting the pledge of allegiance on a regular basis.⁴ Failure to participate was treated as an act of insubordination and could result in punishment to the student.⁵ The Supreme Court held that the action of the local authorities in compelling the flag salute and pledge of allegiance transcended the constitutional limitations on their power and invaded the freedoms that the First Amendment was designed to protect.⁶

In *Wooley v. Maynard*, the New Hampshire license plate had inscribed on it the phrase "Live Free or Die."⁷ The Maynards were Jehovah's Witnesses and found the motto repugnant to their moral, religious, and political beliefs and covered up the motto.⁸ Mr. Maynard covered over the motto and was subsequently found guilty in state court of violating the misdemeanor statute on three separate charges and upon refusing to pay the fines, was sentenced to, and served, 15 days in jail.⁹ The Supreme Court held that a state could not constitutionally require an individual to participate in, the dissemination of, an ideological message, which was in this instance, the display of a motto on a license plate.¹⁰

From this case law it appears that requiring teachers and students to recite the Declaration of Independence could violate the First and Fourteenth Amendments of the United States Constitution. Therefore, the Council substitute provides procedures for students who wish to be excused from participating in the recitation of parts of the Declaration of Independence.

B. RULE-MAKING AUTHORITY:

None.

³ U.S. CONST. amend. 1.

⁴ *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, at 626-627.

⁵ *Id.*

⁶ *Id.* at 642.

⁷ *Wooley v. Maynard*, 430 U.S. 705, at 705.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 7, 2002, the Committee on State Administration adopted one amendment, which provides procedures for students who wish to be excused from participating in the recitation of parts of the Declaration of Independence. Upon written request by the student's parent, the student will be excused from the recitation.

On February 28, 2002, the Council for Lifelong Learning adopted the bill as a council substitute. The council substitute differs from the original bill in the following ways:

- Requires that the last full week of September be recognized as Celebrate Freedom Week in the state's public schools;
- Requires recitation of portions of the Declaration of Independence only during Celebrate Freedom Week, rather than every day of the school year;
- Requires at least 3 hours of appropriate instruction in each social studies class, as determined by the school district, which must include an in-depth study of the intent, meaning, and importance of the Declaration of Independence; and
- Provides procedures for students who wish to be excused from participating in the recitation of the Declaration of Independence.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

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Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

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