

**STORAGE NAME:** h0885b.sa.doc  
**DATE:** February 7, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
STATE ADMINISTRATION  
ANALYSIS**

**BILL #:** HB 885  
**RELATING TO:** Declaration of Independence/Schools  
**SPONSOR(S):** 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) COUNCIL FOR LIFELONG LEARNING
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

This bill requires public school principals and teachers 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.

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 that the recitation should be optional rather than mandatory.

Requiring teachers and students to recite the Declaration of Independence may raise constitutional concerns. See "Constitutional Issues" section of this analysis for further detail.

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

The Committee on State Administration adopted one amendment, which is traveling with the bill. This amendment provides procedures for students who wish to be excused from participating in the recitation of parts of the Declaration of Independence. Please see "Amendments or Committee Substitute Changes" section.

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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 checked="" 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 checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |

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

This bill creates more government because principals and teachers must conduct an oral recitation by students of part of the Declaration of Independence. This bill may decrease family empowerment because families may be forced to have their children recite a creed against their will. This bill could increase individual freedom because the Declaration of Independence contains ideals of freedom, and personal significance. Awareness of these ideals could be beneficial to students. In contrast, requiring students to recite part of the Declaration of Independence against their will diminishes individual freedom.

B. PRESENT SITUATION:

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

C. EFFECT OF PROPOSED CHANGES:

This bill requires public school principals and teachers 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.

Proponents support this bill as a way to increase patriotism and awareness of the principles upon which our country was founded.<sup>1</sup> Opponents assert that this is a mandate on teachers and that the recitation should be optional rather than mandatory.<sup>2</sup>

This bill takes effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

Please see “EFFECT OF PROPOSED CHANGES.”

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<sup>1</sup> Phone conversation, sponsor’s office, 1/31/02; statement of purpose within the bill.

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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.

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.<sup>3</sup>

There are cases relevant with regard to this bill: *West Virginia State Board of Education v. Barnette* and *Wooley v. Maynard*.<sup>4</sup> 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.<sup>5</sup> Failure to participate was treated as an act of insubordination and could result in punishment to the student.<sup>6</sup> 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.<sup>7</sup>

In *Wooley v. Maynard*, the New Hampshire license plate had inscribed on it the phrase "Live Free or Die."<sup>8</sup> The Maynards were Jehovah's Witnesses and found the motto repugnant to their moral, religious, and political beliefs and covered up the motto.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill is unclear as to what the penalty is for refusal to participate in the recitation of the Declaration of Independence. This is an important point that has constitutional implications.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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<sup>3</sup> U.S. CONST. amend. 1.

<sup>4</sup> *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943); *Wooley v. Maynard*, 430 U.S. 705 (1977).

<sup>5</sup> *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, at 626-627.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 642.

<sup>8</sup> *Wooley v. Maynard*, 430 U.S. 705, at 705.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

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The Committee on State Administration adopted one amendment, which is traveling with the bill. This amendment provides procedures for students who wish to be excused from participating in the recitation of parts of the Declaration of Independence. Students wishing to be excused must provide a letter to the school, giving the reason(s) for the excuse, signed by the student's parent or guardian. A child of an accredited representative of a foreign government to whom the United States has extended diplomatic immunity is also excused under the amendment.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Staff Director:

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Josh White

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