

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

History

The Department of State's Office of Cultural and Historical Programs provides the following history of the Seal of the State of Florida:¹

The elements and basic design instructions for Florida's State Seal were established by the Legislature in 1868. Early that year, Florida's newly adopted State Constitution had directed that: "The Legislature shall, at the first session, adopt a seal for the state, and such seal shall be the size of an American silver dollar, but said seal shall not again be changed after its adoption by the Legislature."²

So the Legislature, acting quickly upon the mandate, passed and sent to Governor Harrison Reed a Joint Resolution on August 6, 1868 specifying "That a Seal of the size of the American silver dollar, having in the center thereof a view of the sun's rays over a high land in the distance, a cocoa tree, a steamboat on water, and an Indian female scattering flowers in the foreground, encircled by the words, 'Great Seal of the State of Florida: In God We Trust', be and the same is hereby adopted as the Great Seal of the State of Florida." *Some people also consider the "In God We Trust" phrase the State Motto, although there is no official designation of a State Motto in the Florida Statutes.*

Florida's present Constitution, (Art. II, Sec. 4), continues to require the seal to be prescribed by law.

(Emphasis added.) The effect of the proposed legislation is to correct this omission and statutorily determine that "In God We Trust" is the official motto of the State of Florida.

C. SECTION DIRECTORY:

Section 1 creates 15.0301, F.S., designating "In God We Trust" as the official motto of the State of Florida.

Section 2 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not create, modify, amend, or eliminate a state revenue source.

¹ Available online at: <http://dhr.dos.state.fl.us/facts/symbols/seals.cfm>.

² Article XVI, Section 20, 1868 Constitution of the State of Florida. Available online here:

http://www.floridamemory.com/Collections/Constitution/1868_index.cfm.

2. Expenditures:

The bill does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

The bill does not create, modify, amend, or eliminate a local expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The bill raises a potential federal constitutional issue regarding the separation of church and state, protected in the First Amendment of the Constitution of the United States, which begins, "Congress shall make no law respecting an establishment of religion...."

"In God We Trust" is the official motto of the United States of America.³ The federal motto has been challenged multiple times and has been found to be constitutional. In *Aronow v. United States*, 432 F.2d 242 (1970) the Ninth Circuit Court of Appeals ruled that:

"It is quite obvious that the national motto and the slogan on coinage and currency 'In God We Trust' has nothing whatsoever to do with the establishment of religion. Its use is of patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise."

In *Madalyn Murray O'Hair, et al. v. W. Michael Blumenthal, Secretary of Treasury, et al.*, 588 F.2d 1144 (1979), the Fifth Circuit Court of Appeals sustained a prior decision by the United States District Court (Western District of Texas). The Western District of Texas had expanded on the *Aronow* citation above, saying:

From this it is easy to deduce that the Court concluded that the primary purpose of the slogan was secular; it served a secular ceremonial purpose in the obviously secular function of providing a medium of exchange. As such it

³ 36 U.S.C. s. 302 (2005).

is equally clear that the use of the motto on the currency or otherwise does not have a primary effect of advancing religion.

The Supreme Court of the United States recently handed down another Establishment Clause decision, though not directly dealing with a state or federal motto. On June 14, 2004, the Supreme Court issued a decision upholding the phrase "One Nation under God" in the Pledge of Allegiance.⁴ The Plaintiff, Newdow, was denied relief on issues of standing,⁵ however, in her concurrence with the judgment, Justice O'Connor wrote that

[G]overnment can, in a discrete category of cases, acknowledge or refer to the divine without offending the Constitution. This category of "Ceremonial deism" most clearly encompasses such things as the national motto ("In God We Trust"), religious references in traditional patriotic songs such as the Star-Spangled Banner, and the words with which the Marshal of this Court opens each of its sessions ("God Save the United States and this honorable Court.")⁶

At least three other states also have official mottos that mention "God."⁷

- Arizona: *Ditat Deus*. (Latin: "God Enriches.")
- Ohio: "With God, All Things Are Possible."⁸
- South Dakota: "Under God, The People Rule."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

⁴ *Elk Grove Unified School District v. Newdow*, 124 Sup.Ct. 2301 (2004).

⁵ Summarizing very briefly: Mr. Newdow was a non-custodial parent challenging a school recitation of the Pledge of Allegiance on behalf of his child. Justice Stevens delivered the opinion of the Court, finding that, based on lower family-court rulings, Mr. Newdow did not have standing to challenge the school's recitation of the Pledge each morning. Several justices filed concurrences in the opinion. These Justices generally agreed with the ultimate outcome but believed that Mr. Newdow should be denied relief on substantive constitutional grounds instead of procedural grounds.

⁶ Ironically, Justice O'Connor errs when mentioning Florida in the sole footnote of her concurrence. She states that Florida's official state motto is "In God We Trust," and that the state has placed its motto on its state seal. As mentioned above in the quotation from the Department of State's Office of Cultural and Historical Programs, the opposite will in fact be true, if this legislation is successful.

⁷ A fourth, Colorado, comes close. The state motto of Colorado is *Nil sine numine*, Latin for "Nothing without Providence," but also is translated as "Nothing without a will." Wikipedia, the egalitarian online encyclopedia (which is open to editing by any reader, and thus sometimes challenged for veracity), contains an enlightening discussion about this Latin phrase and its potential religiosity. The article is available here: http://en.wikipedia.org/wiki/Nil_sine_numine.

⁸ Taken from Matthew 19:25-26, the Holy Bible (King James Version). A detailed summary of Ohio litigation (ultimately upholding Ohio's right to mention God in its motto) is available here: http://www.religioustolerance.org/sta_mott.htm.