

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: CS/SB 28

INTRODUCER: Education Committee and Senator Fasano

SUBJECT: K-12 Public Instruction

DATE: April 24, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>EA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends s. 1003.42, F.S., and identifies specific content to be addressed within the required instruction of U.S. and Florida history, comprehensive health, and the U.S. economy.

The bill would the State Board of Education to adopt standards and assessments to address the revised and required instruction. Instructional staff would be required to address additional content provisions following the revision to the Sunshine State Standards and subsequent adoption of instructional materials for social studies.

The bill also requires that U.S. history be taught in at least two grade levels at the elementary, one grade level in the middle school, and one grade level at the high school level.

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1003.42, and 1003.43.

The effective date of the bill is July 1, 2006.

II. Present Situation:

Current law requires that students engage in and complete coursework that includes:

- the Declaration of Independence;
- arguments in support of our republican form of government;
- flag education;
- civics instruction;

- the history of the Holocaust;
- the history of African Americans;
- principals of agriculture;
- effects of alcohol and narcotics;
- proper treatment of animals;
- conservation;
- comprehensive health to include specific concepts;
- the study of Hispanic contributions;
- the study of women's contributions;
- character development; and
- veterans' contributions and the encouragement of patriotism.¹

Section 1003.421, F.S., requires that students recite the Declaration of Independence and that three hours of appropriate instruction in all social studies classes be included during Celebrate Freedom Week, the last full week of classes in September.

Current requirements for high school graduation include specific content within the subject areas of Social Studies and Comprehensive Health and the state has adopted Sunshine State Standards in both content areas.² These curriculum areas, however, are not presently assessed on the Florida Comprehensive Assessment Test (FCAT).

III. Effect of Proposed Changes:

Instruction

The bill requires that all instructional staff teach the specific content areas identified in s. 1003.42, F.S., using materials of highest standards and historic accuracy.

Instruction in Social Studies

The bill requires additional instruction on the Declaration of Independence to include its history as well as added concepts of limited government and popular sovereignty. Section 1003.421, F.S., currently requires the recitation of the Declaration of Independence and three hours of appropriate instruction in all social studies classes during Celebrate Freedom Week, the last full week of classes in September.³

Under the bill, the instruction of civil government would be clarified to be limited only to U.S. civil government. Current law maintains the requirement that all high school students earn one credit in world history, including a comparative study of the history, doctrines, and objectives of all major political systems.⁴

¹ s. 1003.42, F.S.

² s. 1003.43(1)(g) and (j), F.S.

³ s. 1003.421, F.S.

⁴ s. 1003.43(e), F.S.

The bill further requires that the teaching of U.S. History include an emphasis on the 10 amendments of the Bill of Rights, early discovery, the War for Independence, and the civil rights movement. The bill would also require U.S. history to be taught as factual and not to be taught from a revisionist or postmodernist viewpoint. The State Board of Education approved the Sunshine State Standards in 1996 to provide expectations for student achievement in Florida. Current standards adopted by the State Board require students to evaluate conflicting sources and materials in the interpretation of a historical event or episode,⁵ thus placing these provisions in conflict with existing state requirements.

The bill adds instruction in the State Constitution as part of the study of Florida history. This is currently required in law and included in the adopted state standards.⁶

The bill requires instruction in the nature and importance of free enterprise to the U.S. economy. Section 1003.43(1)(d), F.S., currently requires one-half credit in economics to include a comparative study of all economic systems.

The bill provides for additional concepts to be taught within character education such as teaching of the Golden Rule; charity; racial, ethnic, and religious diversity; and respect for life, liberty, and property.

The bill would require instruction of U.S. history at two grade levels in elementary grades, one grade level in the middle grades, and one grade level during high school.

Instructional Materials

The additional content provisions contained in the bill would be effective following the revision of social studies Sunshine State Standards and the subsequent adoption of instructional materials, effective with the 2010-2011 adoption cycle.

Assessments

The bill would require the State Board of Education to adopt additional standards and assessments to align with the revised and required instruction.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵ Sunshine State Standard SS.A.1.4

⁶ s. 1003.43(g), F.S.; Sunshine State Standard SS.A.6.3

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Declaration of Independence includes the following:

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.

This bill specifically adds the following to the required teaching of the Declaration of Independence: natural law and God-given, inalienable rights of life, liberty, and property.

The First Amendment to the Federal Constitution provides: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....” The seminal case cited as controlling precedent in challenges to the establishment clause is Lemon v. Kurtzman.⁷ Here, the U.S. Supreme Court enacted a three-pronged test in its review of establishment clause issues, commonly known as the Lemon test, which requires that all government action:

- i. Have a secular purpose;
- ii. Not have the primary effect of either advancing or inhibiting religion; and
- iii. Not result in excessive government entanglement with religion.⁸

In acknowledging that case precedent does not require a total separation of church and state, the Lemon court recognized, “Some relationship between government and religious organization is inevitable.”⁹

The term “ceremonial deism” has been coined to indicate the historic, traditional inculcation of religious reference into government practice. By way of example, scholars point to the national motto (“In God We Trust”); the invocation of the deity before judicial and legislative proceedings; prayers at high school and college graduations; religious symbols embedded in government seals; the religious reference in U.S. currency; oaths of public officers, court witnesses, and jurors; the use of “in the year of our Lord” to date public documents; and the addition of “under God”¹⁰ into the Pledge of Allegiance.¹¹ Instances of ceremonial deism have generally been upheld by the courts. Laws that provide for religion in instruction, however, may be constitutionally suspect.

⁷ 91 S.Ct. 2105 (1971).

⁸ *Id.*

⁹ *Id.* at 2112.

¹⁰ Stephen B. Epstein, *Rethinking the Constitutionality of Ceremonial Deism*, 96 CLMLR 2083, 2118, (December, 1996); the term “under God” was added to the Pledge of Allegiance in 1954.

¹¹ *Id.* at 2088-2089, 2096-2097.

In Wallace v. Jaffree, the Supreme Court struck down an Alabama statute which authorized public school teachers to have a daily one-minute period of silence for meditation or prayer. Here the court held the sole purpose of the law to be religious, and therefore, unconstitutional under the Lemon test.¹² In Edwards v. Aguillard, the Supreme Court invalidated Louisiana's Balanced Treatment for Creation-Science and Evolution Science in Public School Instruction Act, finding the endorsement of a particular religious doctrine to be its primary purpose.¹³

While courts generally authorize the recital of historical passages that may contain incidental references to religion, such as the Pledge of Allegiance, the Gettysburg Address, and the Declaration of Independence,¹⁴ it is unclear whether a court would find that the language in this bill mandates actual religious instruction.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an indeterminate fiscal cost to the state when the State Board of Education develops assessments under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹² 472 U.S. 38, 40 (1985).

¹³ 482 U.S. 578 (1987).

¹⁴ Walter Lynch, "Under God" Does Not Need to Be Placed Under Wraps: The Phrase "Under God" Used in the Pledge of Allegiance Is Not An Impermissible Recognition of Religion, 41 HOULR 647, 669 (Summer 2004).

VIII. Summary of Amendments:

None.

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