

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education Pre-K -12

BILL: SJR 1104

INTRODUCER: Senator Massullo

SUBJECT: Religious Expression in Public Schools

DATE: February 2, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Favorable</u>
2. _____	_____	<u>JU</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SJR 1104 proposes a constitutional amendment to prohibit a school district from discriminating against students, parents, or school personnel based on religious viewpoint or religious expression, and to require public schools and participating high schools to allow specified religious expression and practices in school settings.

The proposed constitutional amendment:

- Prohibits school district discrimination based on religious viewpoint or religious expression and requires equal treatment of voluntary student religious and secular viewpoints on otherwise permissible subjects.
- Requires public schools to allow student religious expression in coursework and attire and to allow student prayer and student-organized religious gatherings on the same terms as comparable secular expression and activities.
- Authorizes school personnel participation in student-initiated religious activities on school grounds at reasonable times before, during, or after the school day, subject to specified conditions.
- Requires a daily moment of silence at the beginning of the school day and requires, upon request, an opportunity for brief opening remarks at high school championship contests or series, which may include student-led or school personnel-led prayer subject to specified limitations.

II. Present Situation:

Constitutional Amendment Process

A joint resolution proposing a constitutional amendment must be approved by three-fifths of the membership of each house of the Legislature.¹ A proposed amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed, unless a special election is called for that purpose.² An amendment generally becomes effective on the first Tuesday after the first Monday in January following the election, unless the amendment specifies otherwise.³ An amendment proposed by joint resolution must receive approval by at least 60 percent of the electors voting on the measure.⁴

Student and Employee Religious Expression in Public Schools

A public school student retains First Amendment free speech protections at school, and school officials may restrict student speech at school only under recognized constitutional standards (for example, when necessary to prevent material and substantial disruption of school operations).⁵ Students may engage in private religious expression during noninstructional time to the same extent the school permits comparable private secular expression, subject to content-neutral time, place, and manner limits.⁶

Public schools remain subject to constitutional limits on school-sponsored religious activity. A public school may not organize, sponsor, or coerce participation in prayer in connection with school-sponsored events in a manner that violates the Establishment Clause.⁷ At the same time, public school employees may have protections for private religious exercise and expression, depending on context, coercion risk, and whether the employee is acting within official duties.⁸

Florida Statutory Provisions Addressing Religious Expression in Public Schools

Florida law contains provisions addressing religious expression in public schools. A school district and public school may not discriminate against a student or employee based on religious viewpoint or expression, and religious viewpoint must be treated on the same basis as secular viewpoints in student speech contexts where student speech is otherwise permitted.⁹ Florida law also recognizes student religious expression in coursework and attire and recognizes student prayer and religious activities before, during, and after the school day on the same terms as secular activities.¹⁰

¹ FLA. CONST. art. XI, s. 1.

² FLA. CONST. art. XI, s. 5(a).

³ FLA. CONST. art. XI, s. 5(e).

⁴ FLA. CONST. art. XI, s. 5(e).

⁵ *Tinker v. Des Moines Indep. Cnty. Sch. Dist.*, 393 U.S. 503 (1969).

⁶ U.S. Department of Education, *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (updated guidance page), available at <https://www.ed.gov/laws-and-policy/education-policy/guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary-and-secondary-schools>.

⁷ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

⁸ *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022).

⁹ Section 1002.206(2), F.S.

¹⁰ Section 1002.206(3) and (4), F.S.

Florida law requires a daily moment of silence in public schools. In relevant part, the first-period teacher must set aside at least one minute and not more than two minutes for silent reflection, and the teacher may not make suggestions as to the nature of the reflection.¹¹

Florida law also addresses “opening remarks” at certain high school athletic contests, including requirements related to providing an opportunity for brief opening remarks and limitations on the role of the athletic association in controlling content.¹²

III. Effect of Proposed Changes:

SJR 1104 requires submission of the proposed constitutional amendment to the electors at the next general election, or at an earlier special election authorized for that purpose.

The amendment places into the State Constitution the nondiscrimination and equal-treatment provisions currently found in s. 1002.206(2), F.S. The amendment prohibits a school district from discriminating against a student, a parent, or school personnel based on religious viewpoint or religious expression. The amendment also requires a school district to treat a student’s voluntary expression of a religious viewpoint on an otherwise permissible subject in the same manner as the district treats a student’s voluntary expression of a secular viewpoint.

The amendment requires each public school to allow the following student and school personnel religious expression on the same terms as comparable secular expression:

- A student to express religious beliefs in coursework, artwork, and other written or oral assignments without discrimination, with evaluation based on expected academic standards tied to the course curriculum and requirements, and without penalty or reward based on religious content when the assignment requires the student to express a viewpoint.
- A student to wear clothing, accessories, and jewelry displaying religious messages or symbols in the same manner and to the same extent as secular clothing, accessories, and jewelry displaying messages or symbols.
- A student to pray or engage in religious activities or expression before, during, and after the school day, and to organize prayer groups, religious clubs, and other religious gatherings, in the same manner and to the same extent as the student may engage in and organize comparable secular activities or groups.
- School personnel to voluntarily participate in student-initiated religious activities on school grounds at reasonable times before or after the school day, if participation does not conflict with the personnel’s responsibilities or assignments.

The amendment requires public schools to provide specified opportunities for reflection and opening remarks at certain school events by requiring:

- Each public school, without supporting or discouraging student prayer, to direct first-period classroom teachers in all grades to set aside a daily moment of silence of at least 1 minute but not more than 2 minutes, during which a student may not interfere with other students’ participation.

¹¹ Section 1003.45, F.S.

¹² Section 1006.185, F.S.

- Each high school that participates in a championship contest or series of contests to have the opportunity, upon the school's request, to make brief opening remarks using the public address system at the event, with remarks that may include student-led or school personnel-led prayer. Remarks may not be derogatory, rude, or threatening, and may not exceed two minutes per school.

The joint resolution requires that a ballot title and ballot summary be placed on the ballot for the proposed constitutional amendment. The ballot summary is as follows:

CONSTITUTIONAL AMENDMENT
ARTICLE X, SECTION 33

PROTECTING RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS.—

Proposing an amendment to the State Constitution to provide protections from discrimination for student and school personnel religious expression in public schools, including the expression of religious beliefs in a student's school work or attire, prayer, activities and religious expressions, moments of silence, and opening remarks at high school championship contest or series of contests.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Amendments to the Florida Constitution

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a

special election held for that purpose.¹³ Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.¹⁴

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

Prayer at Public School Events

A public school may impose content-neutral time, place, and manner limits on student expression and may restrict student speech only when the speech would materially and substantially disrupt school operations or invade the rights of others.¹⁵ When a public school opens a limited public forum for student or community speech, the school may not exclude otherwise permissible speech solely because the viewpoint is religious.¹⁶

A public school may not adopt a policy that results in prayer delivered over a public address system at school-sponsored football games in a way that makes the message attributable to the school.¹⁷ A public school may not discipline a school employee for brief, personal religious observance that is not part of the employee's official duties and that does not coerce students.¹⁸

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

¹³ Section 97.021(17), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

¹⁴ Section 101.161(1), F.S.

¹⁵ *Tinker v. Des Moines Indep. Cnty. Sch. Dist.*, 393 U.S. 503, 509 (1969).

¹⁶ *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106–12 (2001).

¹⁷ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 301–17 (2000).

¹⁸ *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 2421–33 (2022).

C. Government Sector Impact:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,¹⁹ typically paid from non-recurring General Revenue funds.²⁰ Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates section 33 in Article X of the Florida Constitution.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

¹⁹ Pursuant to Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)

²⁰ See, e.g., Ch. 2022-156, Specific Appropriation 3137, Laws of Fla.