



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 252 (Substitute S-2 as passed by the Senate)
Senate Bill 254 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Doug Carl (S.B. 252)
Senator Philip E. Hoffman (S.B. 254)
Committee: Education

Date Completed: 8-14-95

RATIONALE

Because religion has played a significant role in many important developments in U.S. history, some teachers have sought to include in their classroom teaching the religious motivations for certain historical events and the concept of religious liberty. Numerous documents and writings about the American experience that could be used as instructional resources, however, contain references to God. Because of these religious references, concerns have been raised about the propriety of their use in public schools. Some public school administrators across the State reportedly have prohibited the display or discussion of these documents on the ground that their use in the classroom would violate the doctrine of the separation of church and state. Some people believe, however, that because religious beliefs are integral to the events leading to the founding of this country, teachers should not be prohibited from discussing or displaying historical documents that contain these references, nor should they be prohibited from discussing in classes the role religion played in the founding of this country.

CONTENT

Senate Bill 252 (S-2) would amend the School Code to permit the board of a school district or local act school district to allow a pupil, teacher, or school administrator of the school district to read aloud or to post in a school building or classroom or at a school event all or part of the Pledge of Allegiance, the United States national anthem, and the United States national motto, as well as any historical document that was not obscene to minors under State law, was not defamatory under State law, and did not so incite pupils as to create a clear and present danger of the commission of

unlawful acts on school premises or the violation of lawful school regulations, or to cause school administrators reasonably to believe that there was a clear and present danger of a material and substantial disruption of the school's orderly operation, based on specific facts such as past experience in the school and events influencing pupil behavior at the time the expression was made and not on undifferentiated fear or apprehension.

Senate Bill 254 (S-2) would amend the School Code to require the board of a school district or local act school district to seek to ensure that there was no censorship of the content of any document, described in Senate Bill 252, in the United States history or heritage curriculum or the instruction in the school district based solely on religious references in the document.

The bills are tie-barred to each other.

Proposed MCL 380.1166a (S.B. 252)
380.1166b (S.B. 254)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Reportedly, there have been incidents in which school administrators have prohibited teachers from displaying historical documents that make reference to God, discussing the religious foundations of the country, or reciting the Pledge of Allegiance because it contains the phrase, "one nation under God". The role that religion played in

shaping this country's history and principles should not be excluded from history or social studies courses offered in the State's public schools, nor should teachers be intimidated into leaving out religious references from the instruction about these documents. The First Amendment to the U.S. Constitution prohibits Congress from making any law respecting the establishment of religion, thus protecting citizens from an official state religion and from religious coercion. In addition, Article 1, Section 4 of the Michigan Constitution provides that no one may be compelled to support a place of religious worship or a teacher of religion, and no State money may be appropriated for the benefit of a religion. Unfortunately, the desire to protect the freedom from religion has resulted in the abandonment of this country's religious heritage. Senate Bill 252 (S-2) would permit school personnel as well as students to read aloud or post in a school building the national motto and anthem as well as the types of historical documents that are described in the bill. Senate Bill 254 (S-2) would require a school board to seek to ensure that there was no censorship of these documents based solely on religious references contained in them. Many people fear that significant historical documents have been excluded from curricula and classroom discussions, or have undergone considerable editing and censorship, due to references to God made in those documents. By permitting teachers to refer to these documents and their significance in this country's history, the bills would help to restore common sense to the teaching of the historical importance of these documents in American history and the religious contribution to this country's foundation.

Response: Originally, Senate Bill 254 would have required a school board to ensure that there was no censorship for religious reasons of a historical document or instruction about the country's heritage. The substitute bill would require a school board only "to seek to ensure" that there was no censorship, which would be a weakened attempt to prohibit censorship of this kind. Furthermore, several states--Arizona, Georgia, Indiana, Tennessee, and West Virginia--have enacted or are in the process of enacting legislation that would take a stronger position by specifically prohibiting content-based censorship based on any religious references in these documents.

Supporting Argument

More and more people support the teaching about religion in the public schools because they view religion as having had a significant impact on

history. Thus, the study of religion's importance is essential to understanding the development of this country. The bills would assure that religion's historical significance could not be omitted from a public school curriculum.

Response: There is a difference between teaching *about* religion and teaching *of* religion. Instruction about the role of religion in history may be appropriate as long as a school's approach is academic and not devotional. In addition, a school should: answer questions about religion but not pressure for acceptance of any one religion; educate about all religions, but not promote or denigrate any religion; and, expose students to a diversity of religious views, but not impose any one view or seek to have a student conform to any particular belief. Some people fear that the bills could be a "Trojan horse": that they appear to promote teaching about religion's role in U.S. history, but could become the means for teaching only a certain religious perspective. The United States has grown from a country that reflected the largely Protestant pluralism of the 17th century to a country today where an estimated 3,000 religious groups exist. Classroom instruction, therefore, should seek to teach about religion in history and the importance of religious liberty, while being sensitive to the religious diversity of this nation.

Opposing Argument

It is not clear how the bills would provide protections in addition to those already granted under the free speech clause of the First Amendment. According to proponents, Senate Bill 252 (S-2) would restate what already is allowed under the law, and Senate Bill 254 (S-2) would prohibit censorship of documents based on religious references, which already would appear to be protected under the First Amendment. While the bills could help to remove some uncertainty about the presentation of historical documents, this could be accomplished more effectively through efforts to educate school administrators and faculty about the appropriate methods of providing instruction about religion in the classroom. Moreover, conflicts concerning the teaching of these historical documents and the importance of their religious references may be a constitutional rather than a statutory issue: Actions prohibited by the Constitution cannot be permitted by statute, and freedoms protected by the Constitution cannot be restricted by statute.

Opposing Argument

The School Code requires all public and nonpublic schools in the State to provide instruction in the U.S. and Michigan Constitutions, as well as the

history and present form of the Federal, State, and local governments (MCL 380.1166). Instruction is to begin in the eighth grade or in the ninth grade for school districts maintaining a junior high school. High schools also are required to provide a one-semester course in civics, which must include information on the form and function of the Federal, State, and local governments and stress the rights and responsibilities of citizens. Furthermore, the Code prohibits a high school from issuing a diploma to a student who has not successfully completed a civics course, with an exception for a pupil who has enlisted or has been inducted into military service. Since the School Code requires the study of the U.S. and State Constitutions, instruction about these documents, and presumably other relevant historical documents, already is taking place in schools across the State. Consequently, there is no need for legislation permitting the reading or posting of these historical documents since they presumably are being discussed or displayed as part of the instruction required under the Code. Furthermore, in light of the Legislature's current review and potential revision of the Code, it would be premature to add provisions to the Code at this point. Consideration of the concerns of the bills' proponents could be included within the overall review of the Code instead of as separate legislation.

Response: Although the Code requires civics instruction to be provided in the junior high and high school, some people fear that relevant historical documents are being edited in their presentation to omit religious references. Omitting the role religion has played in history and society can give students an incorrect impression about its importance in understanding significant historical events.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: J. Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.