



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 211 (as passed by the Senate)
Sponsor: Senator Mike Shirkey
Committee: Education

Date Completed: 6-26-15

RATIONALE

The Revised School Code prescribes standards for various academic curricula and requires all public and nonpublic schools in this State to provide regular courses of instruction in the Constitution of the United States and the Michigan Constitution. In addition, the Code specifies that a high school must require a one-semester course in civics in which students are taught the form and functions of the Federal, state, and local governments, and the rights and responsibilities of citizens.¹ Some have raised concerns regarding the degree to which students are learning U.S. history and civics. Evidently, proficiency in these subjects is low and is not improving. To remedy this, some have suggested that the Code be amended to ensure that students are allowed to read and study the founding documents of the United States, and to prohibit censorship based on religious references in those documents.

CONTENT

The bill would amend the Revised School Code to require the board of a school district or intermediate school district, or the board of directors of a public school academy, to permit grade-level instruction for students to read and study America's founding documents, "including documents that contributed to the foundation or maintenance of America's representative form of limited government, the Bill of Rights, our free-market economic system, and patriotism".

The bill also would prohibit a school board or a school official or employee from censoring or restraining study or instruction in American history or heritage or Michigan history or heritage based on religious references in original source documents, writings, speeches, proclamations, or records.

The bill would take effect 90 days after enactment.

Proposed MCL 380.1168

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

According to the National Center for Education Statistics, in 2014 only 18% of eighth graders tested at proficient or above on United States history and 23% tested at proficient or better in civics; in both subjects, there was "no significant change" from the 2010 scores.² Those statistics demonstrate that students are not learning about U.S. history and civics. Students should be

¹ MCL 380.1166.

² "The Nation's Report Card: 2014 U.S. History, Geography, and Civics at Grade 8", National Center for Education Statistics, U.S. Department of Education, retrieved 6-22-2015, at: <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2015112>.

encouraged to learn the lessons that are present in various documents important to State and Federal history and heritage. This bill would empower and protect those who believe that documents important to the nation's heritage should be taught.

In addition, many historical documents contain references to religion or religious texts. These references can be important for understanding the meaning of historical material. Individuals who wish to discuss these texts in class or teach lessons based on documents that include those references should not have to self-censor, or be censored. The bill would ensure that an individual would not be censored or restrained from presenting or learning about U.S. or Michigan history or heritage based on religious references in original source materials.

Opposing Argument

In *Lemon v. Kurtzman*, the U.S. Supreme Court developed a three-part test to determine whether a statute violates the Establishment Clause of the First Amendment.³ First, the statute must have a secular legislative purpose; second, its principal effect must neither advance nor inhibit religion; and third, the statute must not foster an excessive government entanglement with religion.⁴ The bill could allow the teaching of religious texts in public schools, and could lead to excessive government entanglement with religion in violation of the *Lemon* test. Such instances would violate the Establishment Clause and could be challenged in court, which would cost school districts significant money to litigate. Furthermore, the bill would create a solution to nonexistent problem, as there have been few, if any, documented complaints that teachers or students have been censored or restrained from presenting or learning about U.S. or Michigan history because of religious references in source materials.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

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

Fiscal Analyst: Cory Savino

³ *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

⁴ *Id.* at 612-13.