John Rau *Legislative Service Commission*

H.B. 456

124th General Assembly
(As Introduced)

Reps. Faber, Callender, Aslanides, Young, Willamowski, Husted, Calvert, Schmidt, Hoops, Damschroder, Evans, Fessler, Flowers

BILL SUMMARY

- Requires school districts and community schools to display the mottoes of the United States and the State of Ohio in each school building.

CONTENT AND OPERATION

The bill specifically requires the board of education of each school district and the governing authority of each community school (charter school) to display the mottoes of the United States of America ("In God We Trust") and the State of Ohio ("With God, All Things Are Possible") in each classroom, auditorium, and cafeteria of each school building under the respective board's or authority's control. By operation of existing law (not in the bill), it appears that the governing board of each educational service center also is required to display the mottoes in the manner provided in the bill if it operates any classrooms, auditoriums, or cafeterias that are not under the control of a school district board.[1] Each motto is to be displayed separately in a frame with dimensions that are not less than 11 inches by 14 inches.[2] (See **COMMENT**.)

---

[1] *Pursuant to R.C. 3311.055 (not in the bill) "[w]herever in Title [33] the term 'school board' or 'board of education' is used without expressly referring to boards governing city, local, exempted village, or joint vocational school districts, or some specific combination [of those boards], the term [includes] the governing boards of educational service centers." Likewise, that section also specifies that "[w]herever in Title [33] the term 'school district' is used without expressly referring to city, local, exempted village, or joint vocational school districts, or some specific combination [of such districts], the term [includes] educational service centers."*

[2] *R.C. 3313.801 and 3314.03(A)(11)(d). The current state motto, enacted in 1959, is codifed at R.C. 5.06. The national motto, enacted in 1956, is codified at 36 U.S.C. 302.*

COMMENT

In 2001, the full panel of the U.S. Court of Appeals for the 6th Circuit rejected a challenge to the constitutionality of the motto of the State of Ohio. The plaintiffs in that case claimed (among other things) that the motto violates the principle of separation of church and state required under the Establishment Clause of the First Amendment of the U.S. Constitution because it is derived from the New Testament of the Christian Bible. They contended that the motto tends to endorse one religion over another. The court held that the motto does not violate the Establishment Clause because its words do not coerce respect for any particular religion. Rather, the court characterized the motto as "merely a broadly worded expression of a religious philosophical sentiment that happens to be widely shared by the citizens of Ohio." Further, according to the court, it does not compel belief, acquiescence, or participation in any form of religious exercise or assert a preference for one denomination or sect over another. The appeals court upheld the district court decision not to declare the motto unconstitutional but also to enjoin the state from attributing the words of the motto to the Christian New Testament.[3]

Several federal appeals courts have upheld the constitutionality of the national motto.[4] In the most recent such case in 1996, the U.S. Court of Appeals for the 10th Circuit held that the national motto itself and its reproduction on U.S. currency clearly have secular purposes in symbolizing the historical role of religion in American society. Further, the court held that the motto's primary effect is a form of "ceremonial deism" and that it cannot be reasonably understood to convey government endorsement of religious belief.[5]

Whether courts might uphold the required display of the mottoes in public schools where they would presumably be intended for young children to see regularly, is not clear. In the past, the Supreme Court of the United States has distinguished between religious expression involving impressionable children as

---

[3] *American Civil Liberties Union v. Capitol Square Review and Advisory Board, 243 F.3d 289 (6th Cir. 2001) (reh'g en banc). The quoted language is found at 243 F.3d, at 299-300.*

[4] *For example, Gaylor v. United States, 74 F.3d 214 (10th Cir.), cert. denied, 517 U.S. 1211 (1996); O'Hair v. Murray, 588 F.2d 1144 (5th Cir.) (per curium), cert. denied, 442 U.S. 930, 99 S.Ct. 862 (1979); and Aronow v. United States, 432 F.2d 242 (9th Cir. 1970).*

[5] *Gaylor, 74 F.3d, at 216-217.*

opposed to adults.[6] The Court did recently uphold the use of school facilities by religious clubs before or after school hours and rejected the notion that any such club's mere presence in a public school building might cause young students to perceive that the school endorsed religion.[7] Still, in that case, the Court also noted that the school did not have any official role in the activity of the club other than to provide a limited public forum.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-18-01	p. 1179

H0456-I.124/jc

[6] *See for example, Lee v. Weisman, 505 U.S. 577, 592 (1992); School Dist. of Grand Rapids v. Ball, 473 U.S. 373, 390 (1985); and Widmar v. Vincent, 454 U.S. 263, 273-274 n. 14 (1981).*

[7] *Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).*