



S.B. 190

124th General Assembly
(As Introduced)

Sen. Jordan

BILL SUMMARY

- Permits a teacher, administrator, or member of a school board to read from or post an historical document that pertains to the state or national motto or American or Ohio history despite a religious reference in the document.
- Allows the display of a copy of the state or national motto or other historical document if the copy is donated to the school district.

CONTENT AND OPERATION

The bill specifically allows any teacher, administrator, or member of a school district board of education to read from or post an historical document or writing that pertains to the founding of the United States or Ohio or pertains to the motto of the United States or Ohio, even if the document includes religious references. The reading from or posting of the document may occur in a classroom, auditorium, cafeteria, or at any school event. The bill further mandates that there will be no content-based censorship of American or Ohio history, heritage, and culture because of a religious reference in an historical document.

The bill also specifically allows a school district to display in a school a reasonably sized copy of the state or national motto or any other historical document that is either donated to the school district or purchased with money donated to the school district for the specific purpose of purchasing the motto or document.

COMMENT

Allowing schools to display certain historical documents that contain references to religion could possibly raise a constitutional question under the First Amendment Establishment Clause of the United States Constitution. Under the

Establishment Clause, public schools are required to maintain religious neutrality. In determining whether legislation violates the Establishment Clause, courts typically use a three prong test. First, the courts analyze whether the statute has a secular purpose. Second, the primary effect of the statute must be one that neither advances nor inhibits religion. Third, the statute must not excessively entangle the government with religion. (*Lemon v. Kurtzman*, 403 U.S. 602 (1971).)

With specific reference to the state and national mottoes, the Ohio motto, "With God all things are possible," was held constitutional by the 6th Circuit court of appeals in *American Civil Liberties Union of Ohio v. Capitol Square Review and Advisory Board*, 2001 FED App. 0073P (*en banc*). The constitutionality of the United States motto, "In God we trust," has never been decided by the United States Supreme Court. However, several circuit courts have rejected claims that the national motto violates the Establishment Clause. See e.g. *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.), *cert. denied* 442 U.S. 930 (1979).

HISTORY

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