



John Rau

Bill Analysis

Legislative Service Commission

Sub. S.B. 190

124th General Assembly
(As Passed by the Senate)

Sens. Jordan, Austria, Armbruster, Blessing, Carnes, Randy Gardner, Harris, Hottinger, Jacobson, Mumper, Nein, Wachtmann, White

BILL SUMMARY

- Permits a teacher, administrator, or member of a school board to read from or post the state or national motto despite a religious reference in the document.
- Specifically allows the display of a copy of the state or national motto 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 the official motto of the United States, "In God We Trust," or Ohio, "With God All Things Are Possible," even though 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 such materials."

The bill also specifically allows a school district to display in a school a reasonably sized copy of the state or national motto 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.

COMMENT

Allowing schools to display the state and national mottoes could possibly raise a constitutional question under the First Amendment Establishment Clause of the United States Constitution because of the references to religion. 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).)

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 case specifically involved display of the motto on the Ohio Statehouse. 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

| ACTION | DATE | JOURNAL ENTRY |
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