




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



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 144 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Patricia L. Birkholz
Committee: Education

Date Completed: 10-18-04

RATIONALE

The Pledge of Allegiance is, perhaps, the most recognized and memorized statement of support for this nation. School children in many classrooms across the country say the Pledge as part of their daily activities. Indeed, 35 states reportedly require public schools to offer a daily recitation of the Pledge. Some people believe that Michigan also should require public schools to give students an opportunity to recite the Pledge of Allegiance each school day.

CONTENT

The bill would amend the Revised School Code to require the board of a school district, local act school district, or intermediate school district, or the board of directors of a public school academy, to ensure that the Pledge of Allegiance to the Flag of the United States was offered each school day to students in the public schools the board operated.

The bill also would permit a school board or board of directors, at its discretion, to provide that the Pledge of Allegiance and/or the National Anthem, as determined by the board, was offered at after-school events, including interscholastic athletic events, in at least grades nine to 12.

The bill specifies that a pupil could not be compelled, against his or her objections or those of the pupil's parent or legal guardian, to recite the Pledge of Allegiance.

Proposed MCL 380.1304

BACKGROUND

The Pledge of Allegiance reads as follows: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

The original Pledge of Allegiance was written in 1892 by Francis Bellamy, a Baptist minister, for "The Youth's Companion" magazine. The original wording of the Pledge was, "I pledge allegiance to my flag and the Republic for which it stands, one nation, indivisible, with liberty and justice for all" ("The Pledge of Allegiance--A Short History", John W. Baer). Through the years, the words to the Pledge were changed. In 1923, the first National Flag Conference voted to change the words "my flag" to "the flag of the United States of America". Congress codified this version in Federal statute in 1942. In 1954, an amendment to the statute added the words "under God" to the Pledge.

The Pledge has been the subject of court cases. In 1943, the U.S. Supreme Court held unconstitutional a school district's wartime policy of punishing students who refused to recite the Pledge and salute the flag (*West Virginia State Board of Education v Barnette*, 319 U.S. 624).

On June 26, 2002, the U.S. Court of Appeals for the Ninth Circuit ruled that the 1954 act of Congress that added the words "under God" to the Pledge of Allegiance, and a California school district's policy and practice of teacher-led recitation of the Pledge, violated the Establishment Clause of the

U.S. Constitution (*Newdow v U.S. Congress et al*, No. 00-16423). (The Establishment Clause is found in the First Amendment, which reads in part, "Congress shall make no law respecting an establishment of religion...".) On June 14, 2004, the U.S. Supreme Court reversed the Court of Appeals' decision, concluding that the plaintiff lacked standing to bring the action because he did not have legal custody of his daughter, a student in the school district that was a defendant in the case (*Elk Grove Unified School District v Michael A. Newdow*, No. 02-1624).

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

The Pledge of Allegiance is commonly used to open local government meetings and community events and, in many schools, the day begins with a recitation of the Pledge. Easier to recite and less voluminous than the Preamble to the Constitution or the opening paragraphs of the Declaration of Independence, the Pledge is powerful in its concise statement of allegiance to the flag and to the ideals of liberty and justice. Reciting the Pledge reminds people of their common goal to strive for freedom and justice in a democratic society and to pledge themselves, as individuals, toward attainment of those goals as a united people. Michigan should foster the development of these ideals in its school children by following the lead of 35 other states and requiring the boards of public school districts and public school academies to ensure that the Pledge of Allegiance was offered each day to their students.

Reportedly, many students do not know the words to the Pledge of Allegiance or that they are supposed to stand and place their right hand over their heart when reciting it. In the past, children considered it an honor to be selected by their teacher to led the class in saying the Pledge. By requiring schools to create a daily opportunity to recite the Pledge, the bill would help teach school children to respect the flag and their country. If schools do not have flags, veterans groups have offered to donate them.

Response: School boards should be able to have students recite the Pledge if they wish, but that is a decision best left to locally elected officials. Statutorily requiring school boards to ensure that an opportunity to recite the Pledge was offered each day in each school would infringe upon Michigan's tradition of local control over such matters.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Joe 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.