

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 330

SPONSOR: Senator Carlton

SUBJECT: School Districts/Patriotic Programs

DATE: January 28, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/1 amend.</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The bill creates s. 233.0655, F.S., to authorize each district school board to adopt rules to require programs of a patriotic nature in all the schools of the district. The rules would encourage greater respect for the government, national anthem, and flag of the United States. Specifically, the rules would require students and civilians to stand at attention and males to remove their hats when the national anthem is played and when the pledge of allegiance to the flag is recited. The wording of the pledge is quoted in the bill.

This bill creates s. 233.0655, Florida Statutes.

## II. Present Situation:

The pledge of allegiance to the flag was first published in the September 8, 1892 issue of *The Youth's Companion* magazine. Francis Bellamy, an assistant editor at the magazine is considered to be the author. In 1942, the pledge was written into federal law (36 U.S.C., sec. 172) in acts concerning flag display (P.L. 77-623 and P.L. 77-829). The phrase "under God" was added after the word "Nation" in 1954 (P.L. 396). The pledge 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 pledge was written into Florida's school code in 1943 (Laws 1943, ch. 22015) along with protocol for reciting the pledge and showing respect for the national anthem. The 1955 Legislature amended the statute to add the words "under God" after the word "nation", in keeping with the change enacted by Congress the previous year. In 1987, s. 233.065, F.S., was amended to require the pledge of allegiance to be said at the beginning of the day in every elementary and secondary school and to permit a student to be excused from reciting the pledge upon the written request of a parent or guardian.

The 1997 Legislature passed HB. 137 to deregulate public schools (ch. 97-190, L.O.F.). The bill removed details from the school code and gave instead broad policy direction, thus leaving the details of implementation to the school districts. The bill repealed section 233.065, F.S., the statute containing the pledge and protocol for pledging allegiance to the flag. In place of several laws that authorized, or required, particular types of instruction, the bill created s. 233.0612, F.S., which authorized certain types of instruction, including “programs to encourage patriotism and greater respect for country”.

Section 233.0651, F.S., authorizes each school board to allow teachers and administrators to post any excerpt or portion of certain historic material, including the national anthem and the pledge of allegiance.

### **III. Effect of Proposed Changes:**

The bill creates s. 233.0655, F.S., to authorize each district school board to adopt rules to require programs of a patriotic nature in all the schools of the district. The rules would encourage greater respect for the government, national anthem, and flag of the United States. Specifically, the rules would require students and civilians to stand at attention and males to remove their hats when the national anthem is played and when the pledge of allegiance to the flag is recited. The wording of the pledge is quoted in the bill. The bill requires the pledge of allegiance to be said at the beginning of the day in every elementary and secondary school and permits a student to be excused from reciting the pledge upon the written request of a parent or guardian.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. Other Constitutional Issues:**

The U.S. Supreme court ruled in *West Virginia State Board of Education v. Barnett*, 319 U.S. 624 (1943) that a school cannot require a student to say the pledge of allegiance in violation of the student’s first amendment right of freedom from compelled speech.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

# 1. by Education

Removes the comma after the word “nation”, thus conforming the pledge to the one prescribed in federal law.