

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 612
SPONSOR: Senator Fasano
SUBJECT: Display of Flag
DATE: February 3, 2004 REVISED: _____

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

I. Summary:

SB 612 provides that each public K-20 educational institution as well as each educational institution providing postgraduate or professional programs in the state must display the United States flag in every classroom each day. The bill requires that each such flag be at least 2 feet by 3 feet and that it be properly displayed in each classroom.

The bill requires community colleges, state universities and other post-secondary educational institutions to use student activity and service fees as funds to purchase the flags required under the bill. All other educational institutions (effectively K-12 schools) must purchase the necessary flags using funds from the institution, after seeking donations of flags from local veterans' associations.

This bill amends section 1000.06 of the Florida Statutes.

The bill will take effect July 1, 2004.

II. Present Situation:

Flag display: requirements of current law. Section 1000.06, F.S., currently requires every public K-20 educational institution in the state to display both the United States flag and the state flag daily on every district school board building or grounds¹ and on the grounds of each post-secondary educational institution. When two or more buildings are adjacent to each other, one flag may be displayed for the entire group of buildings. Section 256.032, F.S., also requires that the state flag be displayed at each elementary and secondary public school.

¹ District school board buildings generally will include schools, so this requirement means that public K-12 schools are required to display a flag on their buildings or grounds.

State law and practice regarding student activity and service fees. Section 1009.23, F.S., regarding community college student fees, provides that each community college board of trustees may establish an activity and service fee not to exceed 10 percent of the tuition fee. This fee is paid into a student activity and service fund at the community college and may be expended for any lawful purpose to benefit the student body in general.²

Section 1009.24, F.S., regarding state university student fees, provides that each student enrolled in college credit programs at state universities is subject to a student activity and service fee established by the university board of trustees. By law, the allocation and expenditure of student activity and service fees is determined by the student government association of the university, subject to approval of the university president. The fees can be expended for any lawful purpose to benefit the student body in general.³

The requirements of SB 612 (pursuant to which student activity and service fees must be used to purchase flags) are consistent with the requirement set forth in both ss. 1009.23 and 1009.24, F.S., that student activity and service fees be used for a lawful purpose to benefit the student body in general. The provisions of SB 612 are inconsistent with s. 1009.24, F.S., to the extent that that section gives authority to student government associations to spend the fees in their discretion (subject to university president approval); however, according to standard rules of statutory construction, the provisions of SB 612, being enacted later and being more specific in content, would prevail over the provisions of current law in s. 1009.24, F.S.

In practice, student activity and service fees are typically used to support student government, club sports, intramural sports, cultural events, and the needs of student organizations generally.

III. Effect of Proposed Changes:

SB 612 requires (1) every public K-20 educational institution, and (2) every educational institution providing postgraduate or professional programs that is provided or authorized by the Florida constitution and laws to display the U.S. flag in every classroom every day. The flag is required to be at least 2 feet by 3 feet and must be properly displayed in a suitable location in the classroom.

Under SB 612, all community colleges, state universities, and educational institutions that provide postgraduate or professional programs are required to purchase a sufficient number of flags to carry out the purpose of the bill using student activity and service fees as funding. All other educational institutions – effectively K-12 schools – will be required to purchase necessary flags using funds from their institution after seeking donations of the flags from local veterans' associations. These funds would likely be drawn from each school's operating budget.

² Lawful purposes include, without limitation, student publications and grants to duly recognized student organizations, the memberships of which are open to all students at the community college without regard to race, sex or religion. S. 1003.23(7), F.S.

³ Lawful purposes include, without limitation, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex or religion. The fees may not benefit activities for which an admission fee is charged to students, except for student-government-association-sponsored concerts. S. 1009.24(9)(b), F.S.

Definition of flag. It is not clear from the bill language what type of flag would be sufficient to fulfill the bill requirements. One section of the Florida statutes regarding the improper use or mutilation of flags contains a definition of “flag” that includes:

- any flag or any copy, picture or representation of a flag,
- made of any substance or represented or produced thereon,
- of any size,
- evidently purporting to be a flag or a copy, picture or representation of a flag.⁴

This expansive definition of “flag” illustrates the fact that flags may be made not just of sewn cloth, but can be printed on cloth, printed on paper, painted on walls, etc. Because “flag” is not defined in SB 612, there is a possibility that non-cloth flags or representations of flags could be used to fulfill its requirements. If this practice were permitted, the cost of the measure would certainly be less than if sewn cloth flags are required.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The requirements of SB 612 will impact Florida’s post-secondary students, as the bill provides that community colleges, state universities, and educational institutions providing postgraduate or professional programs must purchase required flags using student activity and service fees. Flags vary in price, with average prices for 2’ x 3’ flags in a range of approximately \$8 -\$27. Flags at the lower end of the price range would be printed rather than sewn. Assuming that traditional flags are used (rather than depictions

⁴ S. 256.08, F.S.

or pictures of flags), the total cost of putting a flag up in a classroom will include the cost of the flag, the flag pole, the flag bracket or holder, and labor.

Florida's community college system contains 3,293 classrooms.⁵ Assuming a flag cost in the middle of the average range set forth above (\$17.50), and assuming that none of these classrooms currently contain flags, the cost to furnish flags to comply with the bill's requirements (not including the flag holder or labor) would be approximately \$57,628. Using this same set of assumptions, because the state universities combined have approximately 2,000 classrooms,⁶ the total cost for university students to purchase flags would be approximately \$35,000.

The cost of this measure is very difficult to establish, however, as data are not available to determine how many classrooms already contain flags. Accordingly, the cost would vary widely by institution. For example, SunTrust bank has previously donated funds to the University of Central Florida so that the university could place flags in every classroom. As a result, the students of the University of Central Florida would bear virtually no cost burden related to this bill. Students from other schools, however, that have not had flags previously donated and may not have flags in many classrooms, may have to sacrifice a larger portion of their student activity and service fees funds to provide flags for every classroom.

The University of Central Florida has estimated that, in its initiative to put a flag in every classroom, the cost totaled \$30 per flag, including the flag, pole, bracket and labor to put the flags up.

C. Government Sector Impact:

The cost of this measure for K-12 schools is difficult to establish, as data are not available to determine (1) how many classrooms already contain flags and (2) how many flags would be donated by non-government groups to assist schools in meeting the bill's requirements. Flags vary in price, with average prices for 2' x 3' flags in a range of approximately \$8 -\$27. Flags at the lower end of the price range would be printed rather than sewn. Assuming that traditional flags are used (rather than depictions or pictures of flags), the total cost of putting a flag up in a classroom will include the cost of the flag, the flag pole, the flag bracket or holder, and labor.

There are approximately 156,000⁷ classrooms in the K-12 schools in Florida. Assuming a flag cost in the middle of the average range set forth above (\$17.50), and assuming that none of these classrooms currently contain flags, the cost to furnish flags to comply with the bill's requirements (not including the flag holder or labor) would be approximately \$2,729,930. As noted, however, some of these classrooms certainly contain flags already, and veterans' organizations (or others) may donate them as well.

⁵ Source: Florida Department of Education.

⁶ Source: Florida Department of Education.

⁷ Source: Florida Department of Education.

VI. Technical Deficiencies:

It may be helpful to specify what type of flag is required to comply with the bill – whether a cloth flag need be hung, or whether the use of a picture or other depiction of a flag will be sufficient for compliance. This distinction could dramatically impact the cost of the measure.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
