

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.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: SB 1494

INTRODUCER: Senator Bennett

SUBJECT: Official State Motto

DATE: March 12, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill designates the phrase “In God We Trust” as the official motto of the State of Florida.

This bill creates section 15.0301 of the Florida Statutes.

II. Present Situation:

Chapter 15, F.S., describes the State Seal of Florida, as follows:

The great seal of the state shall be of the size of the American silver dollar, having in the center thereof a view of the sun’s rays over a highland in the distance, a sabal palmetto palm tree, a steamboat on water, and an Indian female scattering flowers in the foreground, encircled by the words “Great Seal of the State of Florida: In God We Trust.”

In addition to this seal, the chapter also designates:

- The sabal palmetto palm as the state tree.
- The orange as the official fruit of the state.
- The juice obtained from mature oranges of the species *Citrus sinensis* and hybrids thereof as the official beverage of the state.
- The Florida Citrus Archives at Florida Southern College in Lakeland as the official citrus archive of the state.
- The horse conch, also known as *Pleuroploca gigantea*, as the state shell.
- Agatized coral as the state stone.
- The moonstone as the state gem.
- The Coreopsis as the state wildflower.

- The “Cross and the Sword,” as presented annually by the citizens of St. Augustine, as the state play.
- The Florida panther as the state animal.
- The largemouth bass as the official state freshwater fish.
- The manatee as the state marine mammal.
- The porpoise as the state saltwater mammal.
- The Zebra Longwing as the official state butterfly.
- The American alligator as the official state reptile.
- The Central Florida Air Fair as the official state air fair.
- The Silver Spurs Rodeo in Osceola County as the official state rodeo.
- The Calle Ocho-Open House 8 is an official festival of the state.
- The Louis Wolfson II Media History Center in Miami as an official state moving image center and archive of the state.
- The official “Keep Florida Beautiful, Incorporated,” service mark as the official state litter control symbol.
- The “Indian River,” historical pageant presented annually by the citizens of Brevard County, as an official state pageant of Florida.
- The Greater Miami Opera Association, the Orlando Opera Company, Inc., and the Florida State University School of Music, are jointly designated as the official Florida State Opera Program.
- The Italian Renaissance Festival presented at Vizcaya by the Renaissance Historical Society of Florida, Inc., is an official state renaissance festival.
- The Florida Museum of Transportation and History located in Fernandina Beach, is designated as the official state transportation museum.
- Myakka fine sand is designated as the official state soil.
- The Florida State Fiddlers’ Association annual fiddle contest is the official state fiddle contest.
- The St. Johns River City Band is an official state band.
- The Florida Sports Hall of Fame in Lake City is the Official Sports Hall of Fame for the state.

III. Effect of Proposed Changes:

This bill designates the phrase “In God We Trust” as the official motto of the State of Florida.

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 1st Amendment to the U.S. Constitution provides, in part, that “Congress shall make no law respecting an establishment of religion...” This provision, made applicable to the states by the Fourteenth Amendment, has generally been interpreted to restrict a unit of federal, state, and local governments from promoting or affiliating itself with any particular religious doctrine or organization, discriminating among persons on the basis of their religious beliefs and practices, delegating a governmental power to a religious institution, or involving itself too deeply in such an institution’s affairs.¹

To evaluate whether laws or policies violate these restrictions, courts have applied an analysis from *Lemon v. Kurtzman*,² which requires that the challenged practice:

- have a valid secular purpose,
- not have the effect of advancing or inhibiting religion, and
- not foster excessive government entanglement with religion.

The difficulty in consistently applying the test from *Lemon v. Kurtzman* to specific circumstances is illustrated by two decisions the U.S. Supreme Court handed down in the 2004-2005 term. In *McCreary County v. ACLU*,³ the Court, applying the *Lemon* test, ruled that the Ten Commandments display in a Kentucky courthouse violated the Establishment Clause, finding that the displays lacked a primary secular purpose. In *Van Orden v. Perry*,⁴ the Court found that the *Lemon* test was not determinative in evaluating whether an edifice on the grounds of the Texas state capitol depicting the Ten Commandments contravened the Establishment Clause, and looked to the nature of the monument and history in holding that the edifice did not violate the Establishment Clause.

In *Lambeth v. The Board of Commissioners of Davidson County, N.C.*,⁵ the U.S. Court of Appeals, 4th Circuit, found that inscribing “In God We Trust” on the façade of a county government center *did not have* a principal or primary effect of advancing or endorsing religion. The court found that a reasonable observer would not fairly understand the inscription to constitute an endorsement of religion given the long-standing secular and patriotic connotations of the phrase. The court noted:

We have heretofore characterized the phrase, “In God We Trust,” when used as the national motto on coins and currency, as a ‘patriotic and ceremonial motto’ with ‘no theological or ritualistic impact.’ [citation omitted] The use of the challenged phrase as the national motto is long-standing, and it has been used extensively over the years by the federal government. By way of example, Congress first authorized the National Mint to include “In God We Trust” on coins in 1865, and made its inclusion mandatory on gold and silver coins in 1908.

¹ *County of Allegheny v. ACLU*, 492 U.S. 573, 589, 109 S.Ct. 3086, 3099 (1989).

² *Lemon v. Kurtzman*, 403 U.S. 602, 91 S.Ct. 2105 (1971).

³ 125 S.Ct. 2722 (2005).

⁴ 128 S.Ct. 2854 (2005).

⁵ 407 F.3d 266 (2005).

Its use was extended to the national currency in 1955. Importantly, Congress made “In God We Trust” the national motto in 1956, and the motto is inscribed above the Speaker’s Chair in the House of Representatives, and also above the main door of the Senate Chamber.

The court in *Lambeth* did not find the inscription of the motto “In God We Trust” on a government building to violate any prong of the Lemon Test because the complainants failed to sufficiently allege that the display had no legitimate secular purpose; that it had the effect of advancing or endorsing religion; or that it resulted in an excessive entanglement of government and religion.

Florida Constitutional Law:

Article I, Section 3 of the Florida Constitution provides that “[t]here shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof,” and that “[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

Local government actions related to religious holidays have been addressed by Florida courts. In 1994, the 2nd District Court of Appeal of Florida upheld a Clay County ordinance outlawing the sale of alcohol on Christmas Day and Christmas night.⁶ The court held that Christmas, notwithstanding its deep religious significance for many, also has secular traditions which local government is free to acknowledge, without offending the constitutions either of Florida or of the United States. The court found that “[a]ny statute that passes muster under article 1, section 3 of the Florida Constitution necessarily meets the federal Establishment clause test,” because of the additional “no aid” provision in the Florida Constitution.⁷ Applying the *Lemon* test in upholding the constitutionality of the ordinance, the court was “unable to discern any religious principle that the ordinance under challenge endorses,” and found that it did not have the primary effect of advancing religion.⁸

(Though recent decisions on the constitutionality of the Florida’s Opportunity Scholarship Program addressed Article 1, Section 3, of the state constitution, those decisions have largely analyzed the “no aid” clause.)

To the extent that this bill promotes a non-secular purpose, or has the effect of advancing religion, it is potentially subject to challenge under the U.S. and Florida constitutions, and could be declared unconstitutional under either federal or Florida law.

⁶ *Silver Rose Entertainment, Inc., v. Clay County*, 646 So.2d 246 (Fla. 1st DCA 1994).

⁷ *Id.* at 251.

⁸ *Id.* at 252.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not require the motto to be placed on any state or local property and should have no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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