

STORAGE NAME: h0471a.ei
DATE: March 31, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 471
RELATING TO: Schools/Minority Instruction
SPONSOR(S): Representative Wilson
COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 8 NAYS 0
 - (2) EDUCATION K/12
 - (3) EDUCATION APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

HB 471 amends the requirements for the teaching of African American history in s. 233.06, F.S., to require the teaching of African culture prior to the European implementation, the dehumanizing effects of slavery and the unique contributions of African Americans to society.

The bill additionally requires that curriculum relating to the history of African Americans must be designed to lead to an investigation of human behavior, the negative consequences resulting from racial hatred, encourage tolerance of different races and cultures, and to promote racial equity and pride.

HB 471 designates July 1, 2002, as the date in which instructional materials including, but not limited to, science, math, history, and health must include historical data related to the contributions of African Americans, Hispanics, and women.

School districts are prohibited from using its instructional materials allocated funds for materials which do not include historical data related to the contributions of African Americans, Hispanics, and women.

The bill forbids the adoption or purchase of any instructional materials that do not meet the requirements of these provisions. According to the Department of Education, this language may mean that districts will be unable to secure instructional materials in the subjects of science, math, history, and health.

The prohibition of using flexible funds for materials that do not contain the historical data as required is effective on July 1, 1999.

Strike Everything Amendment

On March 31, 1999, the Committee on Education Innovation considered HB 471. A strike everything amendment was offered and approved by a vote of five to four. The "strike everything" amendment made the following changes to the bill:

- Revised the required public education instruction to include only those courses required for high school graduation and meeting board adopted standards in reading, other language arts, mathematics, science, social studies, foreign languages, health, physical education, and the arts. This amendment moves the remainder of the prescribed courses of study located in s. 233.061(2), F.S., to the authorized instruction statute, s. 233.0612, F.S., so each school *may* provide students with programs and instruction, but is not *required* to do so. This amendment does not remove any topic from the list, but moves the list from the *required* section to the *authorized* section of statute.
- Removed all references to instructional materials from the bill.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Required Instruction

Under current law, pursuant to s. 233.061, F.S., each school district is required, before graduation to provide students with appropriate instruction in various subjects including language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts. Under s. 233.061 (2), F.S., members of the instructional staff are required to teach the prescribed courses of study, using the books and materials required.

Section 233.061, (2)(g), F.S., requires instruction on African American history, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society. There are no provisions which require the study of human behavior and the negative consequences of racial hatred; encourage the tolerance of different races and culture; or promote racial equity and pride. However, the provisions requiring instruction in history of the Holocaust do require that the subject be taught in a manner that leads to an investigation of human behavior.

In addition to the requirement to teach instruction in African American history and the Holocaust, instructional staff of the schools are required to teach the following:

- The Declaration of Independence.
- The Federalist Papers.
- The United States Constitution government.
- Flag education.
- The primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts.
- The history of the Holocaust.
- The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society.
- The elementary principles of agriculture.
- The true effects of all alcoholic and intoxicating liquors and beverages and narcotics upon the human body and mind.
- Kindness to animals.
- The history of the state.
- The conservation of natural resources.
- Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; nutrition; personal health; prevention and control of disease; and substance use and abuse.
- Such additional materials, subjects, courses, or fields in such grades as are prescribed by law or by rules of the commissioner and the school board in fulfilling the requirements of law.
- The study of Hispanic contributions to the United States.

- The study of women's contributions to the United States.

Teachers are required to use approved books and materials and to follow the approved courses of study when teaching these subjects.

The Florida Legislature has amended the above list several times. Past changes include:

- 1998 Requirement that instruction include study of:
- Hispanic contributions to the U.S.
 - Women's contributions to the U.S.
- 1997 Requirement that civil government instruction include study of:
- Primary function of interrelationships between various levels of government.
 - Inclusion of comprehensive health education.
 - Removal of specific requirement for teaching the effects of alcohol and narcotics.
- 1994 Requirement for instruction in the history of African-Americans and of the Holocaust.

Instructional Materials

Florida is one of 22 states having adoption programs for instructional materials. The program, administered by the Florida Department of Education (DOE), is intended to solicit instructional materials that are suitable for Florida's specific educational needs and goals. Nine-member adoption committees are formed to review materials submitted by textbook publishers. Submissions must meet basic criteria prescribed by DOE, otherwise they are not eligible for adoption. Bids must include a "lowest wholesale bid price," which is guaranteed to remain in effect for the first three years of the adoption contract. After that, prices may be adjusted to the publisher's or manufacturer's then-current lowest wholesale price at which the materials are then being offered to any state or school district in the United States, but the adjustment must not exceed the percentage by which the contract has been in force.

The adoption cycle is six years for core areas including mathematics, science, social studies, reading, and literature. For other subjects it is eight years, although the Commissioner of Education may approve terms of adoption of less than eight years for materials in content areas that require more frequent revision.

Florida, like many other states, has a statutory provision known as the "Most Favored Nation (MFN)" clause. Sub-sections 233.25(6), (7) & (8), F.S., specify that publishers must

- Furnish the instructional materials offered by them at a price in the state which, including all costs of transportation to their depositories, shall not exceed the lowest price at which they offer such instructional materials for adoption or sale to any state or school district in the United States,
- Reduce automatically the price of such instructional materials to any governing board to the extent that reductions are made elsewhere in the United States, and
- Provide any instructional materials free of charge in the state to the same extent as that received any state or school district in the United States.

Instructional Materials Committee

Section 233.09, F.S., requires the state instructional materials committees to evaluate all instructional materials and ascertain which instructional materials best implement the selection criteria developed by the Commissioner of Education and the curricular objectives within applicable performance standards provided in s. 229.565, F.S.

Each committee requires, when recommending instructional materials for use in schools, that materials for social science, history, or civic classes contain the Declaration of Independence and the

Constitution of the United States. Instructional materials recommended by any committee will not contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, or occupation. Materials are also required to accurately portray the ethnic, socioeconomic, cultural, and racial diversity of our society.

Use of Instructional Material Allocation

Section 233.34, F.S., requires each school district to use the annual allocation for the purchase of instructional materials included on the state-adopted list. No less than 50 percent of the annual allocation will be used to purchase items which will be used to provide instruction to students at the level or levels for which the materials are designed. However, up to 50 percent may be used for materials *not* on the state adopted list. This 50 percent of the allocation may be used for any intellectual materials which assist in the instruction of a course including bound, unbound, kit or package form, hardback or soft back textbooks, learning laboratories, electronic media, computer courseware or software.

Districts must spend at least fifty percent of their annual instructional materials allocation on state-adopted materials for grades 2 through 12. For grade K, all of the allocation may be spent on non-adopted materials, and for grade one, up to 75 percent may be so spent. Districts may apply for a waiver that allows them to spend the allocation with no restrictions. To date, 14 districts have applied for and received waivers: Okaloosa (4 schools), Orange, Charlotte, Indian River, Baker, Leon, Palm Beach, Hendry, Hillsborough, Polk, Osceola, Hardee, Suwannee, and P.K. Yonge (University of Florida demonstration research school).

B. EFFECT OF PROPOSED CHANGES:

Strike Everything Amendment

On March 31, 1999, the Committee on Education Innovation considered HB 471. A strike everything amendment was offered and approved by a vote of five to four. The "strike everything" amendment made the following changes to the bill:

- Revised the required public education instruction to include only those courses required for high school graduation and meeting board adopted standards in reading, other language arts, mathematics, science, social studies, foreign languages, health, physical education, and the arts. This amendment moves the remainder of the prescribed courses of study located in s. 233.061(2), F.S., to the authorized instruction statute, s. 233.0612, F.S., so each school *may* provide students with programs and instruction, but is not *required* to do so. This amendment does not remove any topic from the list, but moves the list from the *required* section to the *authorized* section of statute.
- Removed all references to instructional materials from the bill.

Original Bill Before Amendment

HB 471 amends to the requirements for the teaching of African American history in s. 233.06, F.S., to require the teaching of African culture prior to the European implementation, the dehumanizing effects of slavery and the unique contributions of African Americans to society.

The bill additionally requires that curriculum relating to the history of African Americans must be designed to lead to an investigation of human behavior, the negative consequences resulting from racial hatred, encourage tolerance of different races and cultures, and to promote racial equity and pride. The provisions of HB 471 will increase the number of subjects *required* to be taught.

HB 471 designates July 1, 2002, and thereafter as the date in which instructional materials recommended for adoption for subjects including, but not limited to, science, math, history, and health must include historical data related to the contributions of African Americans, Hispanics, and women.

HB 471 prohibits any school district to from using the flexible portion of the allocated funds for the purchase of instructional materials which do not include historical data related to the contributions of African Americans, Hispanics, and women. The 50 percent flexible portion of funding is that portion

which may be used to purchase materials not on the state adopted list. This provision could make it difficult to use the flexible category of dollars to secure materials for subjects such as science, math and health.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Teachers, schools, and districts will be required to teach an additional course of study or expand the study of African American history.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill requires all textbooks recommended for adoption after July 1, 2002, to include historical data related to the contributions of African Americans, Hispanics and women. This could make it difficult to secure instructional materials for certain subjects, such as math, science, and health.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

The bill requires all textbooks recommended for adoption after July 1, 2002, include historical data related to the contributions of African Americans, Hispanics and women.

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 233.061, 233.09 and 233.34, F.S.

E. SECTION-BY-SECTION ANALYSIS:

The section by section analysis below, does not include the “strike everything” amendment passed by the Committee on Education Innovation on March 31, 1999. Please refer to the summary, effects of the proposed changes and committee amendment sections of this bill analysis for an explanation of the amendment.

Section 1 Amends s. 233.061, F.S., specifying that required instruction in the history of African Americans is to focus on African culture prior to the European implementation of slavery; requires that curriculum relating to the history of African Americans be designed to lead to an investigation of human behavior, the negative consequences resulting from racial hatred, encourage tolerance of different races and cultures and to promote racial equity and pride.

Section 2 Amends s. 233.09, F.S., requiring all instructional materials adopted for use after July 1, 2002, to include historical data on the contributions of African Americans, Hispanics and women.

Section 3 Amends s. 233.34, F.S., prohibiting specific funds designated for instructional materials not be used for instructional materials which do not include data on the contributions of African Americans, Hispanics and women.

Section 4 Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

According to the Department of Education, *"Sections two and three of this bill absolutely forbid the adoption or purchase of any instructional materials that do not meet the requirements of these provisions. According to the Department of Education, this language may mean that districts will be unable to secure instructional materials in the subjects of science, math, history, and health."*

When Florida puts new requirements into the law, publishers of textbooks respond to those requirements by including those topics in textbooks as much as is practical. To the extent that these requirements are aligned with requirements in other states, the cost will be less likely to increase. If the requirements were such that only Florida required certain topics and elements to be included, the cost of textbooks would increase because an economy of scale in publishing would be lost. Florida only holds six percent of the market. Florida, California, and Texas combined hold 26 percent of the market.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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- Removed all references to instructional materials from the bill.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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