

HOUSE BILL REPORT

ESHB 2264

As Passed House:
February 10, 1996

Title: An act relating to censorship by school districts.

Brief Description: Prohibiting censorship of materials relating to United States history or heritage in schools.

Sponsors: By House Committee on Law and Justice (originally sponsored by Representatives McMahan, Johnson, Hargrove, Goldsmith, Sheahan, Hymes, Buck, Benton, Mulliken, Koster, Pelesky, Sterk, Lambert, Campbell, Smith, Stevens, McMorris, Mitchell, Talcott, Thompson, Mastin, Backlund, Honeyford, D. Sommers, Hankins, Lisk, Carrell, Robertson and Casada).

Brief History:

Committee Activity:

Law & Justice: 1/17/96, 1/30/96 [DPS].

Floor Activity:

Passed House: 2/10/96, 74-22.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Chappell; Lambert; McMahan; Robertson; Smith and Sterk.

Minority Report: Do not pass. Signed by 5 members: Representatives Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Cody; Morris and Murray.

Staff: Edie Adams (786-7180).

Background: The First Amendment to the United States Constitution and article 1, section 5 of the Washington State Constitution protect the freedom of speech. The freedom of speech, however, is not absolute. The constitutional permissibility of a regulation affecting speech depends upon a number of factors, including the type of regulation imposed, the type of speech regulated, whether the government has a

legitimate or compelling reason for the regulation, and whether the regulation imposes a prior restraint on speech.

Regulations which impose only "time, place, or manner" restrictions are more likely to withstand constitutional attack than regulations which affect the content of speech. In general, a time, place, and manner regulation on speech will be upheld if it (1) is not based on the content of the speech; (2) is narrowly tailored to serve a significant government interest; and (3) leaves open alternative channels of communication.

In order for the government to regulate the content of speech, the government must show that the regulation is necessary to serve a compelling government interest and that the regulation is narrowly tailored to serve that interest. Prior restraints, which are official restrictions on speech imposed prior to publication, are suspect. Some forms of speech are not protected by the freedom of speech, and the content of the speech may be regulated or prohibited, such as obscenity, fighting words, defamation, and false advertising.

The First Amendment of the United States Constitution and article 1, section 11 of the Washington State Constitution prohibit the government from establishing religion. In general, a government statute or regulation does not impermissibly establish religion if (1) it has a secular purpose; (2) the primary effect is neither to advance nor inhibit religion; and (3) it does not foster excessive governmental entanglement with religion.

Summary of Bill: School district boards of directors must not censor any documents, writings, speeches, or records relating to the founding of the United States or the State of Washington because they contain religious references. A teacher or administrator in a public school may read or post in a public school building or classroom or at a public school event any portion of a document, writing, speech, or record relating to the founding of the United States or the State of Washington.

Documents, writings, speeches, or records relating to the founding of the United States or the State of Washington mean the Washington Enabling Act, the Washington Constitution, Washington Supreme Court decisions, the Mayflower Compact, the Declaration of Independence, the Articles of Confederation, the United States Constitution, the Federalist Papers, United States Supreme Court decisions, and the documents, writings, and speeches of the founding fathers of the United States. Founding fathers is defined as the signators to the Declaration of Independence, the authorized delegates to the Constitutional Convention, the members of the first United States Congress and Supreme Court, and the President of the United States.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many students are unaware of prominent historical persons and when important historical events occurred. A patriotic theme is not presented in history books or classes, and there has been a washing out of religious values in our schools. Public schools are drifting away from their intended purpose and the roots of our nation«to teach values and character. It is the values of our founding fathers that should be taught in school.

Testimony Against: This legislation is not necessary. Censorship by school districts is not a problem in this state. The bill is too vague and broad. It could allow teachers to post religious documents that aren't used in the context of education but only to advance that teacher's particular religious views.

Testified: Representative McMahan, prime sponsor; Rita Drohman, citizen (pro); Pari Johnson, citizen (pro); Dave Welch, Christian Coalition of Washington (pro); Kathleen Russell, Washington Association of Churches (con); and Jerry Sheehan, American Civil Liberties Union (con).