



NEWS

2008 Florida Legislative Session: Successes, Close Calls and New Challenges

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The 2008 Florida legislative session was a difficult one for ADL and other groups that value civil rights and religious freedom. ADL achieved a major success, had some close calls, and faces new challenges. After years of advocacy by ADL and other coalition partners, the Florida legislature finally approved an anti-bullying bill. Anti-evolution and religious specialty license plate bills came down to the wire, but ultimately failed. Despite vigorous advocacy by ADL, the Florida Taxation & Budget Reform Commission has put two deeply troubling constitutional amendments on the November '08 ballot which if enacted, would detrimentally alter the relationship between church and state in Florida.

SUCCESS – THE ANTI-BULLYING BILL

Bullying - whether verbal, physical or cyber - is epidemic in Florida's schools. As a key member of the Florida Safe Schools Coalition, ADL has been a leading advocate over the last three years on a comprehensive anti-bullying bill for Florida's public schools.

In 2007, ADL came close with a comprehensive anti-bullying bill that passed in the House, but died in the Senate. But in 2008 - with ADL's vigorous advocacy including meetings by David Barkey, ADL Southern Area Counsel, in

Tallahassee with the Governor's staff, Senators and Representatives from both sides of the aisle, as well as numerous letters and calls - the Florida legislature finally passed an anti-bullying bill called the "Jeffrey Johnston Stand Up for All Students Act." Governor Crist is expected to sign the bill into law.

Introduced by Senator Baker (R-20) and Representative N. Thompson (R-73), the Act defines and prohibits in-school bullying and harassment, and it requires all Florida public schools to adopt anti-bullying policies, which at a minimum contain the protections and requirements of the Act. It covers verbal and physical bullying, as well as cyber-bullying - an issue ADL is already addressing through a new educational program called *Trickery, Trolling and Threats: Understanding and Addressing Cyberbullying*.

A chief concern for ADL was that the anti-bullying bill did not sufficiently protect children who are bullied because of their disability, gender identity, national origin, physical appearance or sexual orientation. While the bill specifically lists as examples of bullying harassment based on race, religion and sex, it did not contain these other characteristics. In both the House and Senate, ADL and the Safe Schools Coalition moved along an amendment which added these characteristics to the list of examples. Although

the amendment ultimately failed, it created the necessary pressure for the bill sponsors to document their vital "legislative intent" through questions asked by friendly Senators and Representatives. This intent makes clear that the list of bullying examples is not exhaustive and ensures that all children are protected from any type of bullying, including harassment on the basis of disability, gender identity, national origin, physical appearance or sexual orientation.

Moving forward, ADL will help ensure that Florida's public schools properly implement and apply this important legislation.

CLOSE CALLS

Anti-Evolution Bills

In February 2008, the Florida State Board of Education adopted new science standards, including teaching the scientific theory of evolution. Less than a month later, so-called "Academic Freedom Act" bills were filed in the Florida House and Senate. Although these bills never mention creationism or intelligent design, a form of creationism erroneously promoted as science by some, they use a broad and vague definition of scientific information to give science educators the right to teach or discuss intelligent design in the public school science classroom.

Senator Storms (R-10) introduced the Senate bill,

which was later renamed the “Evolution Academic Freedom Act.” Representative Hays (R-25) introduced the House bill. Citing constitutional concerns, Representative Hays amended the House bill to require that teachers provide “a thorough presentation and critical analysis of the scientific theory of evolution.” On the House floor, Representative Hays later agreed to an amendment from Representative Kiar (D-97) which inserted “scientific” before “critical analysis.” Representative Kiar offered the amendment with the stated intent of opposing the bill even as amended. With no clear meaning of or limits on “critical analysis,” the revised bill would have allowed a science educator to critically analyze evolution by teaching intelligent design.

Despite vigorous advocacy by ADL on the Committee, Council, and full House & Senate levels, as well as through grassroots efforts, both bills passed their respective chambers. During the Senate debate, Senator Storms refused to directly answer questions about whether her bill would allow an educator to teach intelligent design. On the Senate floor, Senator Storms proposed an amendment conforming the language of her bill to Representative Hays’ first amendment to the House bill. Requiring a two-thirds vote, the amendment failed. Soon after this vote, newspapers reported that Senator Storms found the final House language unacceptable. Because the Senate and House bills differed and no consensus could be reached, the legislation failed.

“I Believe” Specialty License Plate

Several specialty license plate bills in the House and Senate included the “I Believe” specialty

license plate. As pictured below, “I Believe” would be inscribed, and the image of a cross overlaid on a stained-glass window would be prominently displayed on the plate.



The fees collected for the license plate were to be distributed to Faith In Teaching, Inc. which funds faith-based education. In the Senate and the House, bills providing for the plate were placed on the calendar for a final vote. However, the proposed legislation was ultimately defeated by Senate Minority Leader Geller (D- 31) on two procedural grounds. First, the language relating to the “I Believe” plate was not properly heard on the Committee level. Second, a motor-vehicle-owner survey had not been submitted to the State as required by law.

CHALLENGES: TAXATION & BUDGET REFORM COMMISSION JEOPARDIZES FLORIDIANS’ RELIGIOUS LIBERTY

The Florida Taxation & Budget Reform Commission has placed on the November 2008 ballot two controversial amendments which, if enacted, would fundamentally alter the relationship between church and state in Florida.

The Commission is a constitutional entity that meets every 20 years for a two-year term. It is composed of twenty-five political appointees picked by the Governor, Senate President, and House Speaker. With a

vote of seventeen members, the Commission has the authority to directly place amendments to the Florida Constitution on the ballot.

ADL was the “canary in the coal mine” for the Jewish community on these issues. Its professional staff and lay leaders engaged in comprehensive advocacy against these proposals. David Barkey, ADL Southern Area Counsel, traveled to Tallahassee on multiple occasions to testify against these proposals and meet with Senators and Representatives to urge their opposition. ADL’s appearance at hearings and testimony was cited in multiple major newspapers. Mr. Barkey also drafted numerous white papers, talking points, action alerts, and letters on these proposals within and outside the Jewish community. Both lay leaders and professional staff reached out to and met with Commission members, notable leaders and community leaders, including members of Congress and key State officials.

The 2007-2008 term was the first term of this Commission, which was established by the Florida Constitution in 1988. Regarding constitutional amendments, the Constitution limits the Commission to amendments relating to “taxation or the state budgetary process.” However, the Commission spent an inordinate amount of time on two amendments dealing with “religious freedom” and school vouchers which seemingly fall outside the scope of these limits.

Commission Proposal CP0020, now Ballot Proposal 7, deals with the Florida Constitution’s “No Aid Provision.” This vital provision ensures that no Florida taxpayer is required to fund houses of worship or other sectarian institutions. CP0020

repeals the No Aid Provision and requires that houses of worship be eligible for all State contracts and grants. Furthermore, due to the proposal's vague wording, it could be read as exempting funding provided under CP0020 from Florida Establishment Clause. This Clause, like the First Amendment's Establishment Clause, prohibits the State from advancing or endorsing religion. Because houses of worship would undoubtedly receive millions of taxpayer dollars under CP0020, Florida taxpayers, irrespective of religious belief, would be required to fund:

- Houses of worship,
- Religious discrimination in hiring for taxpayer-funded jobs, and
- Religious proselytizing, worship and other activities within taxpayer-funded programs.

Repeal of the No Aid Provision is also an essential prerequisite for sectarian private schools receiving schools vouchers.

CP0020 passed the Commission by two votes.

As originally written, Commission proposal CP0040 would have the same effect as CP0020. However, immediately after CP0020 was passed the Commission, CP0040, now Ballot Proposal 9, was completely revised. The new version authorizes school vouchers to private schools by effectively overruling the Florida Supreme Court' Bush v. Holmes decision. This decision found the Florida Opportunity Scholarship Program, a school vouchers program, unconstitutional under Art. IX, Sec.1, a provision requiring

a uniform system of public schools. Not only does CP0040 allow for a school vouchers program, but it could be read as requiring the State to fund private education. In conjunction with CP0020, this would include funding to religious schools.

CP0040 was initially voted down by the Commission. That should have been the end of story. But at the last meeting of the Commission, it was brought up again without notice. The Commission waived its rules, which would have prohibited another vote on the proposal, and it put CP0040 back on the agenda. The Commission ultimately passed CP0040.

With both proposals on the November ballot, ADL and like-minded organizations face an uphill battle in convincing the electorate to vote against these measures