

SUBJECT: Playing national anthem at certain professional sports events

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

SENATE VOTE: On final passage, April 8 — 28-2 (Eckhardt, Johnson)

WITNESSES: For — Mitch Fuller, Texas Veterans of Foreign Wars

Against — (*Registered, but did not testify*: Dorothy Ann Compton)

BACKGROUND: Occupations Code sec. 2004.002 defines "professional sports team" to mean a team organized in this state that is a member of Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, Major League Soccer, the American Hockey League, the East Coast Hockey League, the American Association of Independent Professional Baseball, the Atlantic League of Professional Baseball, Minor League Baseball, the National Basketball Association Development League, the National Women's Soccer League, the Major Arena Soccer League, the United Soccer League, or the Women's National Basketball Association. It also includes a person hosting a motorsports racing team event sanctioned by the National Association for Stock Car Auto Racing (NASCAR), INDYCar, or another nationally recognized motorsports racing association at a venue in this state with a permanent seating capacity of not less than 75,000, or an organization hosting a Professional Golf Association event.

DIGEST: SB 4 would prohibit a governmental entity from entering into an agreement with a professional sports team that required a financial commitment by Texas or any governmental entity unless the agreement included provisions related to the playing of the U.S. national anthem.

SB 4 would require an agreement to include a written verification that the professional sports team would play the U.S. national anthem at the beginning of each team sporting event held at the team's home venue or other facility controlled by the team for the event. The agreement also would have to include a provision providing that failure to comply with the written verification:

- constituted a default of the agreement;
- immediately subjected the team to any penalty the agreement authorized for default, which could include requiring the team to repay any money paid to the team by Texas or any governmental entity or classifying the team as ineligible to receive further money under the agreement; and
- could subject the team to debarment from contracting with Texas.

A governmental entity that entered into an agreement with a professional sports team would have to strictly adhere to the default provision. If a governmental entity failed to timely adhere to the default provision, the attorney general could intervene to enforce it.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

SB 4 would promote unity and instill pride among Americans by requiring that the national anthem be played at the beginning of professional sporting events at taxpayer-funded stadiums and arenas. Sports and sporting venues historically have played a role in uniting Texans, and playing "The Star-Spangled Banner" before sporting events has been a civic institution since it was made the national anthem by Congress in 1931 following a petition drive by the Veterans of Foreign Wars.

Many Texans have been dismayed that the national anthem has become a source of contention in professional sports, and the bill would send a strong signal of the importance of honoring the American tradition of playing the national anthem at sporting events. By requiring a state or a local government entity that entered into a contract with a professional

sports team include as part of that contract a requirement that the anthem be played at the team's home venue, the bill also would address a recent situation where a Texas sports team intentionally declined to play the national anthem before its games.

Since most sports teams play in venues financed by taxpayers or otherwise receive tax dollars, it is appropriate for the state to require the playing of the national anthem at such events. The bill would not infringe on anyone's personal freedom to decline to participate in singing the national anthem.

**CRITICS
SAY:**

SB 4 could violate First Amendment principles by compelling privately owned professional sports teams to play the national anthem at their events. Free speech is a fundamental democratic value, and the government should not compel a private entity to engage in speech against its will.

The recent event involving a Texas team that stopped playing the national anthem was appropriately handled by the sports association to which the team belongs and does not require government intervention.