

**STORAGE NAME:** h0997b.ca  
**DATE:** March 17, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS**

**BILL #:** HB 997  
**RELATING TO:** Student Transportation  
**SPONSOR(S):** Representative C. Green and other  
**COMPANION BILL(S):** SB 1482 (c)

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

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
  - (2) EDUCATION APPROPRIATIONS
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

The bill revises provisions relating to identification of hazardous walking condition for public school students. The bill requires that allocations to correct hazardous walking condition be made within a certain time period. The bill revises requirements regarding distance from school for purposes of transportation funding eligibility.

This bill does not appear to have a direct fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Section 234.021(2)(a), Florida Statutes:** This paragraph provides the procedures to be followed for identification of hazardous walking condition for students who walk to school and live within the 2 miles of the school after a request for review is made. The procedure is as follows:

- Requires the district superintendent of schools or the superintendent's designee to inspect the condition along with a representative of the local governmental entity where the condition exists.
- The representatives must determine whether or not the perceived condition is hazardous to students and must report to the Department of Education.
- If a condition is determined to be hazardous to students, the district school board must request a determination from the state or local government having jurisdiction regarding whether the hazard will be corrected, and, if so, provide a projected completion date.
- State funds must be allocated for the transportation of students subjected to such hazards, provided that such funding must cease upon the correction of the hazard or projected completion date, whichever occurs first.

**Section 234.021(2)(b), Florida Statutes:** It is intended that school districts and local governments are to work cooperatively to identify condition which are hazardous to students who must walk to school. It is also intended that state or local governments having jurisdiction correct the hazardous condition within a reasonable period of time.

**Section 234.021(3), Florida Statutes:** This subsection provides the criteria for determining whether walking condition are hazardous. Walkways have the following requirements:

- Walkways parallel to the road, with respect to any road where students must walk in order to walk to and from school, must have an area at least 4 ft. wide adjacent to the road and there must be a surface for students to walk on without being required to walk on the road surface.
- Uncurbed walkways parallel to roads with a posted speed of 55 miles per hour must have an area for students to walk on and the area must be set off the road by no less than 3 feet from the edge of the road. Provides certain exceptions for hazardous walking condition criteria.

Exceptions to these requirements include the following:

- The road is located in a residential area which has little or no transient traffic;
- The road has a volume of traffic that is less than 180 vehicles per hour, per direction, during the time the students walk to and from school; or
- The road is located in a residential area and has a posted speed limit of 30 miles per hour or less.

**Section 236.083(1)(a), Florida Statutes:** This paragraph provides criteria for funding for student transportation. The funding for the transportation of students is limited to the following:

- Students in kindergarten through grade 12, in migrant and exceptional student programs below kindergarten, and in any other state-funded prekindergarten program must meet certain requirements; **and**
- The student must live 2 or more miles from school.

**B. EFFECT OF PROPOSED CHANGES:**

The bill revises provisions relating to identification of hazardous walking condition for public school students. The bill requires that budget allocations (of the state, county, or municipal governmental entity which has jurisdiction over the site) to correct hazardous walking condition be made with 24 months after determination that a hazardous condition exists. The bill revises distance from school requirements for purposes of transportation funding eligibility.

**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?

Yes.

**Section 1** amends paragraph 234.021(2)(b), Florida Statutes, requiring state, county, or local municipality where the hazardous condition exists to make appropriate budgetary allocations to correct the condition within 24 months of notification of the determination of the hazardous condition.

This section also amends subsection 234.021(3), Florida Statutes, requiring the currently required 4 ft. wide walk area be reasonably flat and obstacle-free.

**[Note: Amendments #2 and #3 remove any requirement that the governmental entity having jurisdiction where the hazardous condition exist make appropriate budgetary allocations to correct the condition within a specified timeframe. ]**

**Section 2** amends section 236.083(1)(a), Florida Statutes, reducing the distance requirement for allocation of funds for transportation of students in kindergarten through grade 3 from 2 miles to 1 mile and specifying the distance requirement for students in grades 4 though 12 is 2 miles or more.

**[Note: Amendment #3 does not reduce the distance requirement for the allocation of student transportation funds.]**

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

Yes.

**Section 2** of the bill provides for a requirement for allocation of funds for transportation of students in kindergarten through grade 3 for students who live 1 mile or more from school.

**[Note: Amendment #3 does reduce the current 2 mile distance requirement for the allocation of funds for student transportation.]**

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?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

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?

N/A

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?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 234.021(2)(a), (b), and (3), Florida Statutes; and  
Section 236.083(1)(a), Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends subsection 234.021(2)(a) and (b), Florida Statutes, amending the hazardous walking condition identification process, as follows:

- Removes the distance requirement for a request for review concerning a "condition perceived to be hazardous to students in that district" from the current distance requirement of "within the 2 mile limit" and replacing the requirement with a reference to the "distance prescribed by s. 236.083(1)(a), Florida Statutes.

[**Note** : The bill also amends section 236.083(1)(a), Florida Statutes, changing the distance requirement for an annual allocation to each school district for transportation of students from the current 2 miles or more for all public students in kindergarten through grade 12 to 1 mile or more for students in kindergarten through grade 3 and 2 miles or more for students in grade 4 to grade 12.]

- Amends the requirements for reporting the determination of whether or not the condition is hazardous to the students to not only include the Department of Education, but also the governmental entity, either state, county, or local municipality, having jurisdiction over the hazardous area.
- Clarifies the requirement of cooperation of the district school board and local governmental entities by specifying that the state, county, or municipal governmental entity having jurisdiction over the hazardous condition site is required to make appropriate budgetary allocations to correct the hazardous condition within 24 months of notification of the hazardous walking condition.

Amends subsection 234.021(3), Florida Statutes, amending the criteria for determining hazardous walking condition to include the requirement of having a *reasonably flat, obstacle-free* surface for students to walk on without being required to walk on the road surface.

**Section 2:** Amends paragraph 236.083(a), Florida Statutes, amending the requirements for student transportation, for students in kindergarten through grade 12, in migrant and exceptional student programs below kindergarten, or in any other state-funded prekindergarten programs as follows:

- For children in kindergarten through grade 3 living 1 mile or more from school, and
- For children in grades 4 through 12 living 2 miles or more from school.

**Section 3:** 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:

Indeterminate.

This bill may require the state to spend funds or take action requiring the expenditure of funds, however the bill only specifies the timeframe (24 months) for making appropriate budgetary allocations to correct the hazardous condition, as already required in the law. Costs under the bill will depend upon the hazard and the projected cost to correct the hazard. The bill provides that budgetary allocations to correct the hazardous condition be made within 24 months of notification of the determination of any hazardous walking condition.

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:

Indeterminate.

This bill may require cities and counties to spend funds or take action requiring the expenditure of funds, however the bill only specifies the timeframe (24 months) for making the appropriate budgetary allocations to correct the hazardous condition, as already required in the law. Costs under the bill will depend upon the hazard and the projected cost to correct the hazard. The bill provides that budgetary allocations to correct the hazardous condition be made within 24 months of notification of the determination.

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:

This bill may require cities and counties to spend funds or take action requiring the expenditure of funds, however the bill only specifies the timeframe (24 months) for making appropriate budgetary allocations to correct the hazardous condition, as already required in the law. Costs under the bill will depend upon the hazard and the projected cost to correct the hazard. The bill provides that budgetary allocations by the governmental entity to correct the hazardous condition be made within 24 months of notification of the determination of any hazardous walking.

If the bill were a mandate, it might be exempt from the provisions of subsection (a) of Art. VII, Sec. 18, Florida Constitution, if funding (partially or totally) is provided by the Legislature. It may also be exempt if the fiscal impact is determined to be insignificant (under \$1.4 million in the aggregate). In addition, if the Legislature determines the provisions of the bill to fulfill an important state interest and since similarly situated persons (i.e., the state) are required to comply, the bill would meet the requirement to be an exception to this constitutional provision.

**[Note:** The “strike everything” amendment, amendment #3, will effectively remove the possibility that this bill creates a mandate on local government.]

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill is not anticipated to reduce the authority of municipalities or counties to raise total aggregate revenues.

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

This bill does not reduce the total aggregate municipality/county percentage share of a state tax.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**Amendment #1:**, amending section 234.021(2)(a), Florida Statutes, specifying requirements for a request to review a condition perceived to be hazardous to students living in that district who are in grades K-3 and live less than 1-mile from the school, or are in grades 4-12 and live less than 2-miles from the school.

**Amendment #1 was not considered.**

**Amendment #2:** Amending section 234.021(2)(b), Florida Statutes, corrects a grammatical error and clarifies that state or local governmental entities having jurisdiction are requested to make appropriate budgetary allocations to correct a hazardous walking condition within a reasonable time after the local school district notifies the responsible governmental entities of the identified hazardous condition.

**Amendment #2 was not considered.**

On March 17, 1999, the House Committee on Community Affairs adopted **Amendment #3, a “strike everything”** amendment. The amendment differs from the bill, as introduced, as follows:

**Section 1:** Amends paragraph 236.083(1)(a), Florida Statutes, providing an annual allocation to each district for transportation to public school programs for specified students meeting certain criteria, including elementary school students whose grade level does not exceed grade 6, who are subject to specified hazardous walking condition en route to or from school, requiring, as follows:

- The state or local government that has control over the hazardous condition is requested to make appropriate budgetary allocations to correct the hazardous condition within a reasonable



time after the local school district notifies the responsible governmental entities of the hazardous condition.

**Section 2:** Amends paragraph 234.021(2)(b), Florida Statutes, providing intent for cooperation among the district school boards and local governmental entities to identify conditions that are hazardous to students who must walk to school. Requesting that the state or local governmental entities having jurisdiction over a hazardous walking condition to make appropriate budgetary allocations to correct the condition within a reasonable time after the local school district notifies the responsible governmental entities of the hazardous condition.

Amends section 234.021(3), Florida Statutes, providing criteria for determining a hazardous walking condition specifying that a hazardous walking condition exists, in addition to other criteria, that with respect to any road along which students must walk in order to walk to and from school if there is not an area adjacent to the road which has at least a 4-foot-wide, reasonably flat, obstacle free surface upon which students may walk without being required to walk on the road surface.

Creates subsection 234.012(4), granting authority to the Commissioner of Education to approve the district's designation of a hazardous walking condition in an area that does not meet the current criteria for a hazardous walking condition, if, upon the request of the district, any of the following conditions in the area pose significant safety hazards to the children:

- Commercial activities or traffic
- Canals, lakes, or other bodies of water;
- Construction sites, other than single-family-home construction sites;
- High levels of crime; or
- Other conditions that, considered cumulatively, pose an unacceptable risk to children.

**Section 3:** Provides an effective date of July 1, 1999.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

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Tonya Sue Chavis, Esq.

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