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DATE: February 22, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 217
RELATING TO: School Service Accountability Act
SPONSOR(S): Representative(s) Mack and Byrd
TIED BILL(S): None

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

- (1) EDUCATION INNOVATION YEAS 11 NAYS 2
- (2) FISCAL RESPONSIBILITY COUNCIL YEAS 15 NAYS 8
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

This bill requires each school district to conduct an analysis of the cost and quality of service associated with providing student transportation services, food services, and facilities operations and maintenance services. Specifically, this bill requires each school district to conduct an analysis and request for proposals or solicit bids for one of the aforementioned non-instructional services in each of the 2002-2003, 2003-2004, and 2004-2005 academic years. The analysis that a school district conducts must be used to compare the proposals or bids that private enterprises submit for the provision of these three non-instructional services.

Any school district that currently contracts with a private-sector provider for one of the three non-instructional services is not required to conduct an analysis of that service and is not required to request proposals or solicit bids for that service.

The bill further requires school districts to disclose and discuss the responses to the requests for proposals or solicitation of bids at a regularly scheduled school board meeting within 30 days after the conclusion of the bid process. Additionally, school districts must disclose and discuss a written comparison to the required analysis and a written report of the results of the bid process.

It is the purpose of this bill to use any cost savings realized by a school district through the provision of contracted non-instructional services for the improvement of educational services for students, notwithstanding any other provision of law.

Each school district is required to report the results of the implementation of this piece of legislation to the Commissioner of Education on an annual basis. The report must include: new private contracts for the listed non-instructional services, anticipated cost savings, the district's authorized use of the anticipated savings, actual cost savings, use of savings of prior-year contracts, a description of each instance in which a request for proposals or solicitation of bids process did not result in a contract, and the school district's reasoning for not entering into a contract.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill does not appear to support the principle of less government because it requires:

- school districts to conduct a written analysis and request for proposals or solicit bids for one of three non-instructional services during the next three academic years;
- school districts to disclose and discuss the responses to the request for proposals or solicitation of bids at a regularly scheduled school board meeting within 30 days after the conclusion of the bid process;
- school districts to report the results of the implementation of this bill to the Commissioner of Education on an annual basis;
- the Department of Education to provide technical assistance to school districts for the purpose of implementing this bill; and
- the Commissioner of Education to issue to the Governor, the Speaker of the House of Representatives, and the President of the Senate a report consolidating information submitted by the school districts to the Commissioner.

This bill appears to support the principle of lower taxes by promoting individual responsibility in spending because it calls for the school districts to evaluate current non-instructional services and contract with a private company if that company can better serve the school district's interests.

This bill appears to support the principle of personal responsibility by encouraging responsible behavior because school districts must evaluate their non-instructional services in order to ensure the services are cost-efficient and productive.

B. PRESENT SITUATION:

Privatizing Public Sector Services

The Office of Program Policy Analysis and Government Accountability's (OPPAGA) progress report, *Assessing Privatization in State Agency Programs*, (no. 98-64, 1999), sites some of the advantages and disadvantages to privatizing certain public sector services. According to OPPAGA, the following advantages may be gained from privatizing public sector services:

- **Cost Savings:** Fiscal pressures are the major reason governments privatize. Usually the private sector can perform services at a lower cost than the public sector due to several reasons:
 - **Lower labor costs:** Generally, the private sector has lower labor costs than the public sector, mainly because of limited employee benefits.
 - **Reduced regulatory requirements:** Public sector agencies usually have to “jump through more hoops” than the private sector due to accountability concerns.
 - **Reduced Overhead:** Public sector agencies pay costs for various support functions (e.g. personnel and legal staff) in addition to program-related functions.
 - **More personnel flexibility:** Private sector employers have more flexibility in rewarding, terminating, and motivating employees than public sector employers.
 - **Better equipment:** Private sector companies can usually adapt to new technologies faster than public sector agencies.
 - **Faster reactions to changing conditions:** Private sector companies can react faster to changing conditions than public sector agencies. They can also expand operations more quickly whereas; public sector agencies must obtain approval to create new positions.
- **Staffing flexibility/obtain needed expertise:** Sometimes public sector agencies need to obtain specialized expertise. If the need is for a limited time period, it may be more cost-effective to hire a private consultant than to hire a new staff member.
- **Political factors:** Using private experts can lend credibility to certain tasks, especially when the issue at hand is divisive.
- **Shift start-up costs to private sector:** Contracting for a service, especially a capital-intensive service, can avoid the need to appropriate up-front funding.

OPPAGA also lists the following potential disadvantages to privatizing public sector services:

- **Reduced public accountability:** Privatization provides less agency control of a function. Problems can arise if the public does not have access to service or financial records maintained by the private company.
- **Service quality problems:** Contractors may reduce costs by cutting corners through using lower quality materials or requiring higher costs at a later time to fix or maintain the lower quality materials.
- **Higher long-term costs:** Private firms may “low-ball” their initial bid to get a contract and subsequently raise costs. Also, many agencies do not know how much it costs to provide in-house services because their accounting systems do not allocate all direct and indirect costs for services. As a result, the agency may accept a bid price that looks low but is in fact higher than its in-house costs.

Student Transportation Services

Pursuant to s. 236.083, F.S., state funds are allocated to school districts for the purpose of providing transportation services to students. Subject to the rules of the Commissioner of Education, each district must determine the number of students that are to be transported because the students:

- live two miles or more from school;
- are students with disabilities or enrolled in a teenage parent program, regardless of the distance from school;
- are in a state prekindergarten program, regardless of the distance from school;

- are in a vocational or dual enrollment program, or have disabilities and are transported from one school center to another to participate in an instructional program or service;
- are pregnant students or student parents or are the children of a student parent, regardless of the distance from school; and
- are elementary school students whose grade level does not exceed grade 6, and are subjected to hazardous walking conditions to and from school.

The 2001 Legislature appropriated \$375.8 million to school districts for the purpose of providing student transportation services.

Privatization of Student Transportation Services

Presently, Florida TaxWatch reports that the Martin County, Santa Rosa County, Miami-Dade County and Duval County School Districts contract their transportation services to private companies.

According to OPPAGA, the Martin County School District entered into a three-year contract with a private sector company for the provision of transportation and vehicle maintenance services. In OPPAGA's review of the Martin County School District, the private company's cost proposal was 13.5% lower than the district's projected costs over three years, generating an estimated annual savings of \$630,000.

In the 1999 report, *Privatization of Student Transportation Offers Potential Benefits and Savings*, OPPAGA also reported that the Santa Rosa County School District received approximately \$343,500 of additional services through the privatization of transportation services with no further costs to the school district.

The Miami-Dade County School District privatized 50 of its 1,360 home-to-school transportation routes. The school district awards the routes to qualified bidders with the lowest prices. The Miami-Dade County School District reports that the cost for the privatized service is 11% higher than the cost of in-house service. The Miami-Dade County School District will continue to keep these routes privatized because it affords small businesses in Miami-Dade County the opportunity to do business with the district (OPPAGA, *Review of the Potential for Privatizing Student Transportation*, February 1998).

The Duval County School District privatized its transportation services over 40 years ago. The school district contracts with more than 100 bus companies. As a result of using a large number of contractors, OPPAGA reports that the school district finds it difficult, on occasion, to communicate with some of the contractors in order to resolve problems in a timely manner. Additionally, OPPAGA reports that the school district has no point of comparison and cannot determine the cost of impact of using privatized transportation services because it does not operate any of its own buses. Nevertheless, the school district reports that it is satisfied with the results of the contracting arrangements and will continue to operate in the same way in the future (OPPAGA, *Review of the Potential for Privatizing Student Transportation*, February 1998).

The Duval District School Board revised its student transportation program beginning with the 2001-2002 school year changing from more than 100 bus companies to contracting with less than 10 larger bus companies with an expected long term reduction in cost.

School Food Services

Food services are regulated through the federal Child Nutrition Act (42 U.S.C. s.1771) and the National School Lunch Act (42 U.S.C. s.1751). The Secretary of Agriculture allocates federal funds to each state's Department of Education. The Department of Education then disburses the funds to school districts. The Department of Education reports that the funds are disbursed on a per meal basis using a formula of multiplying the number of lunches served by the national average meal payment prescribed in both the Child Nutrition Act and the National School Lunch Act. This amount is allocated exactly per meal. The other portion of the funds is allocated to the states for the implementation of the Child Nutrition Act and the National School Lunch Act. There is a potential for a surplus in the amount allocated for implementation. Any surplus must be refunded to the Secretary of Agriculture where it is reallocated to other state's food service funds on a per need basis (P.L. 105-202).

Provisions in s. 228.195(5)(a), F.S., require each school district to implement a school breakfast program in all elementary schools. Each school district must implement breakfast programs in all elementary schools in which students are eligible for free and reduced price lunch meals, to the extent specifically funded in the General Appropriations Act.

Privatization of School Food Services

According to Florida TaxWatch in its 1998 report, *A Study of Non-Instructional Services*, a few school districts in Florida contract their food services programs to private sector companies including; Duval, Leon, and Santa Rosa. The Department of Education reports that the Jackson County School District also privatizes its food services.

According to the Associate Superintendent of the Duval County School District, the school district's food services were privatized in 1990. Since privatization, the school district no longer supplements food services with local school district tax dollars. According to Florida TaxWatch, the private company keeps the current food services employees as employees of the school district. When new employees are needed, through attrition and growth, the new hires become employees of the private company instead of the school district.

According to a telephone conversation with the Superintendent of the Santa Rosa County School District, the school district began privatizing its food services approximately four years ago. When the private company began providing food services, the school district employees had the choice to remain school district employees or become employees of the private company. Through attrition or growth, new hires automatically become private employees instead of school district employees.

Currently, information on the privatized food services of the Leon County School District and Jackson County School District is unavailable.

Facilities Operations and Maintenance Services:

According to the Department of Education's *Financial and Program Cost Accounting and Reporting for Florida's Schools*, the definition of facilities operations and maintenance is the following:

- **Operation of Plant:** Consists of activities concerned with keeping the physical plant open and ready for use. Major components of this function are utilities, including telephone service, custodial costs, and insurance costs associated with school buildings. Operation of plant includes cleaning, disinfecting, heating, moving furniture, caring for grounds, school crossing guards, security, and other such activities that are performed

on a daily, weekly, monthly, or seasonal basis. Operation of plant does not encompass repairs and replacement of facilities and equipment.

- **Maintenance of Plant:** Consists of activities that are concerned with keeping the grounds, buildings, and equipment at an acceptable level of efficiency through repairs or preventative maintenance.

Privatization of Facilities Operations and Maintenance Services

According to Florida TaxWatch, a few school districts currently contract with private-sector companies for their facilities operations and maintenance services, including the Polk County and Duval County School Districts. Since 1986, the Polk County School District has contracted with a private company for the administrative/management duties of its custodial services. The private company provides professional/technical support, equipment, training, and cleaning supplies and allocates the number of staff to each site within the school district. The private company also provides a district manager, grounds manager, five area managers, one training manager, two secretaries, and a half-time secretary position. The school district additionally employs five area managers and all of the custodial staff. Additionally, according to OPPAGA's 1999 review of the Polk County School District, the school district implements site-based management where the school site administrator is responsible for maintenance and operation of the facility and school administrators supervise the custodians.

The Polk County School District estimates a savings of approximately \$1.2 million by privatizing some of its facilities operations and maintenance services. According to OPPAGA, the savings is based on comparing baseline costs attributed to salaries, custodial equipment and supplies, and grounds expenditures from 1986 and then adjusting inflation and the increase in space, to the current private contract cost.

According to a telephone conversation with the Associate Superintendent of the Duval County School District, the school district began privatizing its facilities operation and maintenance services in 1996. The school district estimates that it saved over \$8 million by privatizing these services. The savings amount is based on the rate the school district paid before the services were privatized and then adjusting the rate for inflation and growth.

EFFECT OF PROPOSED CHANGES:

This bill requires each school district to conduct an analysis of the cost and quality of service associated with providing student transportation services, food services, and facilities operations and maintenance services. Specifically, this bill requires each school district to conduct an analysis and request for proposals or solicit bids for one of the aforementioned non-instructional services in each of the 2002-2003, 2003-2004, and 2004-2005 academic years. The analysis that a school district conducts must be used to compare the proposals or bids that private enterprises submit for the provision of these three non-instructional services.

Any school district that currently contracts with a private-sector provider for one of the three non-instructional services is not required to conduct an analysis of that service and is not required to request proposals or solicit bids for that service.

At the end of the 2004-2005 academic year, any school district that has not contracted for the provision of a non-instructional service listed in the bill must periodically conduct an analysis of that service according to the requirements of the bill.

The bill authorizes school districts to form consortia for the purpose of conducting an analysis and requesting proposals or soliciting bids for a specific non-instructional service, unless otherwise prohibited by law.

The bill further requires school districts to disclose and discuss the responses to the requests for proposals or solicitation of bids at a regularly scheduled school board meeting within 30 days after the conclusion of the bid process. Additionally, school districts must disclose and discuss a written comparison to the required analysis and a written report of the results of the bid process.

It is the purpose of this bill to use any cost savings realized by a school district through the provision of contracted non-instructional services for the improvement of educational services for students, notwithstanding any other provision of law.

The Department of Education must provide technical assistance to school districts for the purpose of implementing the requirements of this bill.

Each school district must report the results of the implementation of the bill to the Commissioner of Education on an annual basis. The report must include the following:

- new private contracts for the listed non-instructional services;
- the anticipated cost savings associated with each new contract;
- the school district's authorized use of the anticipated savings;
- actual cost savings and use of savings of prior-year private contracts; and
- a description of each instance in which a request for proposals or solicitation of bids process did not result in a contract, including a comparison of the school district cost obtained from the cost analysis to the cost proposed by each bidder, the school district's reasoning for not entering into a contract, and where the school district's action or inaction is documented in public records.

Lastly, the bill requires the Commissioner of Education to issue the Governor, the Speaker of the House of Representatives, and the President of the Senate a report that consolidates the required information reported by the school districts to the Commissioner.

This bill may serve as an impetus for improving the quality of service associated with the provision of transportation services, food services, and facilities operations and maintenance services within local school districts. Additionally, this bill may serve as an impetus for generating cost savings for local school districts if school districts contract with private enterprises that can provide the non-instructional services at a lower cost. Since the bill provides that any cost savings realized by school districts through the provision of contracted non-instructional services must be used for the improvement of educational services for students, this bill may contribute to the enhancement of the quality of education delivered to public school students.

Should school districts decide to contract with private enterprises for the provision of transportation services, food services, and facilities operations and maintenance services, this bill may provide increased opportunities for the private sector to provide services that are traditionally provided by the public sector. Consequently, this bill may contribute to the expansion of job opportunities in the private sector and to the reduction of job opportunities in the public sector. However, it appears that most private enterprises that provide non-instructional services for school districts maintain existing school district employees and only gain private sector employees through attrition and growth.

C. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Creates s. 236.6851, F.S., in order to (1) establish the School Service Accountability Act of 2002; (2) require each school district to conduct an analysis of the cost and quality of service associated with providing student transportation services, food services, and facilities operations and maintenance services; (3) require each school district to request proposals or solicit bids for one of these services in each of the next three academic years; (4) require each school district to discuss and disclose responses to the request for proposals or solicitation of bids at a school board meeting; (5) require each school district to submit a report to the Commissioner of Education regarding the implementation of the School Services Accountability Act; and (6) require any cost savings generated by privatizing non-instructional services to be used for the improvement of educational services.

SECTION 2: Establishes an effective date of July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please see Fiscal Comments.

2. Expenditures:

Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may provide increased opportunities for the private sector to bid on services that have normally been provided by the public sector. The bill may also increase job opportunities in the private sector.

D. FISCAL COMMENTS:

The fiscal impact on state government is difficult to determine at this time without knowing the amount of technical assistance the Department of Education will provide to school districts.

School districts may initially incur costs associated with conducting analyses of the costs and quality of service associated with providing student transportation services, food services, and facilities operations and maintenance services. However, analyzing current non-instructional services or contracting with private enterprises for the provision of non-instructional services may significantly reduce long-term costs for school districts, therefore saving local school district

expenditures. Additionally, this bill may lower local expenditures that are often needed by school districts to supplement federal and state funds allocated for non-instructional services.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

This bill does not provide additional rule-making authority.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 9, 2002, the Committee on Education Innovation adopted, without objection, two amendments to HB 217:

The first amendment clarifies that unless a school district has already contracted the service, each school district must conduct an analysis of the cost and of the quantity of service and issue request for proposals or solicitation of bids for:

- any one of the services listed in the bill during the 2002-2003 school year;
- one of the other services listed in the bill during the 2003-2004 school year; and
- any remaining services listed in the bill during the 2004-2005 school year.

The second amendment authorizes, instead of requires, school districts to contract with private providers when private providers best serve the Legislature's intent to promote the delivery of effective and cost-efficient non-instructional services.

On February 22, 2002, the Council on Fiscal Responsibility considered HB 217 as amended by the Committee on Education Innovations and adopted one amendment. On page 1, line 31 after the words

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“educational services for students.” the following sentence was added, “For purposes of this section educational services may include any or all of the costs savings to be paid as a bonus to classroom teachers.”

VI. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Ryan Visco

Staff Director:

Daniel Furman

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Cecil Golden

Staff Director:

David Coburn
