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DATE: January 26, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL EDUCATION
ANALYSIS**

BILL #: HB 611

RELATING TO: Bus Drivers

SPONSOR(S): Representative(s) Slosberg

TIED BILL(S): None.

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

- (1) GENERAL EDUCATION
- (2) BUSINESS REGULATION
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

HB 611 requires driving records of all school bus drivers and drivers of nonpublic sector buses to be checked at least once a year to ascertain whether the driver has a suspended or revoked driver's license. The bill requires school districts to check the records of school bus drivers and employers to check the records of drivers of nonpublic sector buses.

The bill authorizes the Commissioner of Education to assess a civil penalty of up to \$5,000 with respect to each failure of a school district to comply with the provisions. The Department of Transportation may assess the same penalty against an employer who failed to comply with the provisions.

According to the Department of Education (DOE), current state requirements and school district practices exceed the provisions contained in the bill. According to the Department of Highway Safety and Motor Vehicles (DHSMV), the school districts are currently checking driving records of all school bus drivers.

The DHSMV further stated, although it is not required by law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

The fiscal impact is insignificant; *current practices meet or exceed the requirements in the bill.*

II. 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

The bill does not support the principle of less government because it requires each school district and employers of nonpublic sector bus drivers to check the driving records of their employees at least once a year.

B. PRESENT SITUATION:

Physical Examination for School Bus Drivers

Current law, subsection (3) of section 316.615, F.S., provides that a person may not operate a motor vehicle when transporting school children unless the operator has met the physical examination requirements established by law and by rule adopted by the Commissioner of Education. The operator of a motor vehicle transporting school children must pass an annual physical examination and have posted in the vehicle a certificate to drive the vehicle.

Requirements for Employment

Subsection (1) of section 234.101, F.S., requires each school bus driver to be of good moral character, of good vision and hearing, able-bodied, free from communicable disease, mentally alert, and sufficiently strong physically to handle the bus with ease. The bus driver must also possess other qualifications prescribed by the Commissioner of Education and hold a valid commercial driver's license with a passenger endorsement.

Pursuant to subsection (2) of section 234.101, F.S., the Commissioner of Education must adopt requirements that school bus drivers must meet before the drivers are employed by the district school boards. These requirements are adopted by the Commissioner of Education in Rule 6A—3.0141, F.A.C.

Rule 6A—3.0141(2), F.A.C., provides that at the time of initial employment, the school board must assure that the driver of a school bus meets the following requirements:

- Has five (5) years of licensed driving experience.
- Has submitted to the superintendent a written application for employment in a form prescribed by the school board.
- Has filed a set of fingerprints for the purpose of the required background check for determining criminal record.

Rule 6A—3.0141(4), F.A.C., specifies that prior to transporting students on a school bus each driver must meet the following requirements:

- Hold a valid commercial driver license with passenger endorsement.

- Has successfully completed forty (40) hours of preservice training consisting of at least twenty (20) hours of classroom instruction and eight (8) hours of behind-the-wheel training based upon the Department's Basic School Bus Driver Curriculum.
- Demonstrate the ability to prepare required written reports.
- Be physically capable of operating the vehicle as determined by a physical examination, prescribed by the Commissioner and given by a physician designated by the school board and as determined by a dexterity test administered by the school district.
- Demonstrate physical and mental capabilities required to carry out all assigned responsibilities as a school bus driver.

Responsibilities of School Districts Regarding School Bus Drivers

Rule 6A—3.0141(6), F.A.C., requires each school district to obtain a driver's history record from the Department of Highway Safety and Motor Vehicles for each regular school bus driver, substitute driver, or any other individual certified to drive a school bus by the district. The rule further specifies a schedule for reviewing these records must be:

- *Prior to initial employment;*
- *Prior to the first day of the fall semester;*
- *Thereafter, the district must continuously screen driver records using the automated weekly updates, ensuring proper retrieval documentation for every week, or*
- *In the event a continuous weekly update is not performed using the automated weekly update, school districts will perform required driving record checks prior to the first day of each semester of the regular school year, and prior to the first day of summer school for any driver who will be transporting students during summer school.*

The Rule does not specify any required action to be taken with regard to the findings of such reviews but does provide that any district employee with a suspended or revoked license who operates a school bus must be subject to dismissal by the school board.

Rule 6A—3.0141(7), F.A.C., specifies that records must be requested in a manner prescribed by the Department of Highway Safety and Motor Vehicles using the Automated School Bus Driver's License Record Check System through the DOE's data base. The rule further requires all school districts to obtain and review records for bus drivers using the automated data base system. For any driver licensed in another state, the district must obtain and review the driver's history record from the appropriate state.

Rule 6A—3.0141(8), F.A.C., requires each school district to establish a school board policy that specifies which infractions of the traffic code will deem an applicant unqualified for hire and infractions that causes any employee to be subject to a prescribed follow up action. At a minimum, the policy must state that any district employee who knowingly operates a school bus with a suspended or revoked license must be subject to dismissal by the school board.

Auditor General Operational Review of the District School Board Bus Driver Driving Records

According to the Auditor General's Report Number 12491, dated May 22, 1995, a system was developed in 1993 to provide access to the driver's history records through the Florida Information Resources Network (FIRN) to facilitate the bus driver's record checks by the districts. This system is known as the Automated School Bus Driver's License Record Check System (the System). The districts enter the driver's license number into the System, and the number is then matched against the Florida Department of Highway Safety and Motor Vehicle's (DHSMV) records. The match against the DHSMV records is made weekly with the results of the weekly update available to the districts on Wednesday through the System. The districts can obtain locally through the System either the entire master file (all entries) or the weekly update (only those entries showing activity since the prior week). Beginning July 1, 1995, all districts were required to use the System to

obtain information on the driving records of their bus drivers. When the Auditor General's staff reviewed the System in January 1995, approximately 50 districts were using the System. The Auditor General's report states *if effectively maintained and used, the System will greatly facilitate the ability of the districts to monitor the driving records of their bus drivers (Operational Review of the District School Board Bus Driver Driving Records, May 22, 1995).*

According to the Department of Education, there is no ongoing monitoring to determine if school districts are complying with the requirement to check the drivers licenses of bus drivers weekly or the first day of each semester of the regular school year or prior to the first day of summer school. However, the DOE does spot check school district records once every four years to see if they are complying with this requirement, and to date, the DOE has not found any district to be out of compliance.

Standards for Nonpublic Sector Buses

Subsection (1) of section 316.70, F.S., specifies that the Department of Transportation must establish and revise standards to assure the safe operation of nonpublic sector buses to assure:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.
- Florida license tags are purchased for nonpublic sector buses.

Current law, subsection (2) of section 316.70, F.S., authorizes the Department of Transportation to assess a civil penalty of up to \$5,000 per infraction against anyone who violates any of the above listed provisions or who violates any rule or order of the department.

According to DHSMV, although it is not required by current law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

C. EFFECT OF PROPOSED CHANGES:

HB 611 requires each school district to check the driving records of all school bus drivers at least once a year to ascertain whether the driver has a suspended or revoked driver's license. The bill authorizes the Commissioner of Education to assess a penalty of up to \$5,000 with respect to each failure of a school district to comply with the provision.

HB 611 also requires the Department of Transportation to require employers of drivers of nonpublic sector buses to assure that the driving records of nonpublic sector buses be checked at least once a year to ascertain whether the driver has a suspended or revoked driver's license. The bill would add this provision to the provisions that the Department of Transportation can assess a civil penalty of up to \$5,000.

According to the Department of Education, existing requirements of section 234.101, F.S., and Rule 6A—3.0141, F.A.C., entitled, *Employment of School Bus Drivers*, exceed the requirements in the bill, as they relate to school district employed or contracted drivers.

According to the Department of Education, the proposed changes to section 316.70, F.S., would ensure that drivers of nonpublic sector buses, including buses serving private schools, also comply with the license check requirement.

Regarding the civil penalty, the Department of Education, further states that the DOE would have to establish procedures for enforcement and assessment if it exercises the permissive authority of the bill to do so.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends subsection (3) of section 316.615, F.S., adding a provision that requires each school district to check the driving records of all school bus drivers at least once a year to ascertain whether the driver has a suspended or revoked driver's license; and authorizes the Commissioner of Education to assess a civil penalty of up to \$5,000 with respect to each failure of a school district to comply.

Section 2: Amends subsection (1) of section 316.70, F.S., adding a provision that requires the employers of nonpublic sector bus drivers to check the driving records of each nonpublic sector bus driver at least once a year to ascertain whether the driver has a suspended or revoked driver's license.

Section 3: Provides an effective date July 1, 2002.

III. 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:

Please see Fiscal Comments

D. FISCAL COMMENTS:

According to the Department of Education (DOE), current state requirements and school district practices exceed the provisions contained in the bill. Therefore, any fiscal impact would be minimal.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), this bill has no fiscal impact on their department because the school districts are currently checking driving records of all school bus drivers. The DHSMV further stated, although it is not required by current law for

employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Usually the driving records are checked when the driver is initially employed and on each renewal of the policy.

According to the Department of Transportation, this bill will not have a fiscal impact on their department because the DHSMV would be responsible for checking the driving records of nonpublic sector bus drivers.

IV. 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 counties or municipalities have to raise revenues in the aggregate.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rule-making authority.

C. OTHER COMMENTS:

The Department of Education suggests clarification of the specific types of "nonpublic sector" bus operators and employers who are to be affected by the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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