

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Reduce government?

HB 1103 requires employers of nonpublic sector bus drivers to perform annual driver's license checks on their drivers to ascertain whether licenses have been suspended or revoked. In addition, the bill authorizes agreements between public and private schools for private school students to be carried on public school buses, and public school students to be carried on private school buses. To the extent that more public school buses might carry private school students, the role of government may increase. However, the reverse may also be true if more private school buses carry public school students.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Standards for Nonpublic Sector Buses

The Department of Transportation (FDOT) 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 carry the insurance required by law, and carry 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.

A nonpublic bus is any bus used for the transportation of persons for compensation and which is not owned, leased, operated, or controlled by a municipal, county, or state government, or a governmentally owned or managed nonprofit corporation. School buses are exempt from requirements applicable to nonpublic sector buses.

Currently, FDOT is authorized 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 FDOT.

School Buses and Liability

Each district school board is liable for tort claims arising out of any incident or occurrence involving a school bus or other motor vehicle owned, maintained, operated, or used by the school board to transport persons. The school board is liable to the same extent and in the same manner as the state or any of its subdivisions, subject to sovereign immunity waiver laws. Claims and judgments of persons

transported arising out of a single incident is limited to \$5,000 multiplied by the rated seating capacity, as determined by rules of the State Board of Education, or \$100,000, whichever is greater.

Each district school board may secure and maintain a medical payments plan or medical payments insurance on school buses and other vehicles. If used, these options are subject to a threshold of \$500 per person. Expenses, costs, or premiums to protect against liability may be paid from any available funds of the district school board. District school boards may require owners of vehicles used for transportation not owned by the board to provide evidence of adequate insurance.

Officers, employees, or agents of the state or of any of its subdivisions are not personally liable for any injury or damage done in the scope of employment, unless that person acted in bad faith, maliciously, or with willful disregard for human rights, safety, or property.

School buses which are rented, leased, purchased, or contracted for must meet applicable federal safety standards and other specifications as may be required by the rules of the State Board of Education. Students may be transported only in designated seating positions and must use the approved occupant crash protection system provided by the manufacturer.

Liability and Agreements

The law authorizes school districts to enter into agreements with state agencies or the governing bodies of counties or municipalities for the use of school buses for public purposes. These entities must indemnify the school district from any and all liability arising from the use of the buses under such an agreement. For purposes of liability for negligence, state agencies or subdivisions have sovereign immunity. Every other corporation or organization must provide specified liability insurance coverage for claims and judgments. Generally, school boards are not responsible for transportation to events and activities that are not offered, sponsored or required by the district, nor are they liable for the transportation arranged and provided by parents or others to these activities.

School Buses, Safety Belts or Other Restraint Systems, Liability, and Agreements

A school bus is one owned, leased, operated, or contracted by a school district. All school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 are required to provide each student a separate belt or restraint system. School buses purchased prior to December 31, 2000 are exempted. Also, passengers on school buses equipped with safety belts or federally approved restraint systems must wear properly adjusted and fastened belts at all times while the bus is in operation.

Specific parties are exempt from liability:

- In an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt, the following are not liable: the state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone.
- In an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or nonuse of a safety belt or restraint system in a dangerous or unsafe manner, the following are not liable: the state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone.

Districts may enter into agreements to provide transportation only if the point of origin or termination of the trip is within the district's boundaries.

Effect of Proposed Changes

HB 1103 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.

In addition, the bill provides that private school students may ride on a public school bus and public school students may ride on a private school bus, subject to the specified terms of a mutual agreement between the local school board and the private school. For private school students to be transported on public school buses, the agreement must be in accordance with pertinent sovereign immunity statutes and safety belt or other restraint system requirements. Alternatively, the agreement for public school students to be transported on private school buses must be contingent upon the private school bus driver's possession of adequate liability insurance through his or her employer.

According to the Department of Highway Safety and Motor Vehicles, although current law does not require it, employers of nonpublic sector bus drivers annually obtain driving records of their bus drivers, as this practice is routinely required by the insurance companies who insure the vehicles. Generally, the driving records are checked when the driver is first employed and then on each renewal of the policy.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.70, F.S., to require driving record checks of nonpublic sector bus drivers by their employers.

Section 2. Authorizes private and public schools to transport one another's students, limits liability, and provides safety requirements.

Section 3. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact on nonpublic sector bus operators will be minimal since these operators are generally required by insurers to conduct periodic driver's license checks. The fiscal impact on private schools is indeterminate, since it is impossible to forecast how many will enter agreements to transport students, and to have students transported. Furthermore, information on how many private schools carry sufficient liability insurance to participate in such agreements is not available.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 1103 does not require any exercise of rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES