

elderly, for the use of school buses for such transportation.¹ The agreement must provide for reimbursement of the district school board for the proportionate share of the fixed and operating costs attributable to using the buses under the terms of the agreement. Section 1006.261, F.S., also allows district school boards to enter into agreements with regional workforce boards to transport participants in the welfare transition program and with nonprofit corporations and civic associations to transport school-aged children to certain after-school programs.

The local government, state agency, or nonprofit that has an agreement to use school buses for transportation under s. 1006.261, F.S., must indemnify and hold harmless the district school board for any liability that arises from the use of school buses under the agreement. Local governments and state agencies that use school buses under such an agreement are subject to the waiver of sovereign immunity and recovery limitations in s. 768.28, F.S. Similarly, a nonprofit organization or corporation that uses school buses for transportation must provide liability insurance coverage in specified amounts.

Authority of District School Boards

Article IX, s. 4(b) of the State Constitution, and s. 1001.32(2), F.S., authorize a district school board to operate, control, and supervise all free public schools in its district and to exercise any power except as expressly prohibited by the State Constitution or general law. In 1978, the Legislature prescribed the authority of district school boards as the authority to “operate, control, and supervise all free public schools in their respective districts and may exercise any power for *educational purposes* except as otherwise provided by the State Constitution or law (emphasis added).”² The term “educational purposes” was defined as “any activity or power exercised in the establishment and maintenance of courses, classes, institutions, and services adequate to meet the educational needs of all citizens of the district.”³ The Florida Attorney General’s Office and the Florida Board of Education have interpreted this language as a limitation on the authority of district school boards.⁴

Although s. 230.03(2), F.S., was amended in 1983 to remove the reference to “educational purposes,”⁵ the Florida Attorney General’s Office has opined that the constitutional and statutory grants of authority to the State Board of Education are sufficient to require the actions of district school boards to be “consistent and in harmony” with state law and the board’s applicable rules and standards.⁶ Florida Statutes address the use of district school board property and, currently, limit the types of agreements that a school board may enter into regarding the use of facilities or equipment. Consequently, some district school boards have not been able to enter into interlocal agreements with other public entities which could have resulted in a positive fiscal impact or cost savings for the district because the agreements are not authorized under state statute or do not serve an educational purpose.

¹ s. 1006.261(a), F.S.

² s. 1, ch. 78-86, L.O.F.

³ *Id.*

⁴ See 72 Op. Att’y Gen. 4 (1983), 9 Op. Att’y Gen. 2-3 (1995), and 45 Op. Att’y Gen. (2007). See also Opinion from the Florida Board of Education dated March 23, 1989.

⁵ s. 7, ch. 83-324, L.O.F.

⁶ 72 Op. Att’y Gen. (1983)

III. Effect of Proposed Changes:

Section 163.01(6), F.S., is amended to expand the uses of an interlocal agreement by authorizing a party to an agreement to use or maintain the facilities or equipment of another party on a cost-reimbursement basis.

Section 1003.02(1), F.S., is amended to allow a district school board through the terms of an interlocal agreement under s. 163.01, F.S., to make provision for the transportation of students, rent buildings as part of its school facilities program, and adequately provide for property maintenance and upkeep of school plants.

Section 1006.261(1), F.S., is amended to authorize a district school board to enter into an agreement with a local government or state agency in order to use school buses for other public purposes beyond transportation to the transportation disadvantaged. It also provides for reimbursement of the district school board for the costs of maintenance and other activities of the board attributable to the uses of the buses under an agreement. Section 1006.261(2), F.S., is revised to require that a public agency using the buses for other public purposes indemnify and hold harmless a district school board for any liability associated with the use of its buses pursuant to an agreement.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Education noted that school districts may incur indeterminate costs for developing cost analyses, monitoring agreements, and purchasing additional insurance, depending on the terms of the agreements. Interlocal agreements authorized

under this bill are intended to allow for the coordination and consolidation of some district school board fleet maintenance and facilities, which may result in a cost savings to the districts that are parties to the agreement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The committee substitute deletes the authority to enter into interlocal agreements that provide for reimbursement on the basis of an in-kind benefit.

B. Amendments:

None.