

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1199 Photographic Enforcement of School Bus Safety

**SPONSOR(S):** Altman and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1440

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	18 Y, 0 N	Mathews	Hall
2) PreK-12 Appropriations Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

When approaching a stopped school bus displaying a stop signal, a driver must bring his or her vehicle to a full stop until the bus's stop signal is withdrawn, unless he or she is traveling in the opposite direction of a the bus on a divided highway with specified barriers. A person who fails to stop for a school bus displaying a stop signal commits a noncriminal moving traffic violation and must pay a civil penalty of \$200 or request a hearing to contest the citation. A driver who passes a school bus on the same side that children enter and exit while the school bus's stop signal is displayed also commits a moving violation but he or she must pay a civil penalty of \$400 and is required to attend a mandatory hearing. Traditionally, a traffic citation must be issued by a law enforcement officer who witnesses the violation occur. However, Florida allows the use of electronic traffic infraction detectors ("red light cameras") to enforce specified traffic violations. Such traffic infraction detectors are not currently authorized to enforce a violation of failing to stop for a school bus displaying a stop signal.

HB 1199 authorizes a school district to install and operate a school bus side stop signal arm enforcement system (enforcement system) which uses electronic traffic enforcement technology to enforce traffic violations for failing to stop for a school bus displaying a stop signal. Under the bill, a school district may contract with a private vendor to provide installation, operation, and maintenance of the enforcement systems. A private vendor must submit specified information regarding an alleged violation to any law enforcement agency authorized to enforce school bus stop arm violations within 30 days after the alleged violation is captured, including the following: a copy of the recorded image showing the vehicle; the vehicle's license plate number and state of issuance; and the date, time, and place of the alleged violation.

The bill requires a law enforcement agency to review the information and determine if there is sufficient evidence that a violation occurred. If the evidence shows that a violation occurred, the agency or an authorized agent must electronically certify a notice of violation and, within 30 days send a notice of violation by registered mail to the vehicle's registered owner, including specified information detailing how to pay the civil penalty, contest the violation, and the consequence of failing to pay or contest. If the owner does not contest or pay the civil penalty, the Department of Highway Safety and Motor Vehicles (DHSMV) may prohibit the owner from renewing his or her registration or transferring the title of his or her vehicle. However, a violation detected by an enforcement system is not considered a moving violation and may not be made part of a person's driving record. Under the bill, any funds received from violations detected by an enforcement system must be provided to the school district in which the violation occurred and used only for installing and maintaining the enforcement systems or other student transportation safety technology.

The bill requires each school district using an enforcement system to provide an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the DHSMV by December 31, 2021 and every year thereafter providing specified information.

The bill will likely have a neutral fiscal impact on school districts which implement an enforcement system, as any funds received may only be used for installing and maintaining the enforcement systems or other student transportation safety technology. The bill will likely have a positive indeterminate fiscal impact on private vendors providing enforcement system installation and maintenance.

The bill provides an effective date of July 1, 2021.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1199a.CRM

**DATE:** 4/1/2021

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

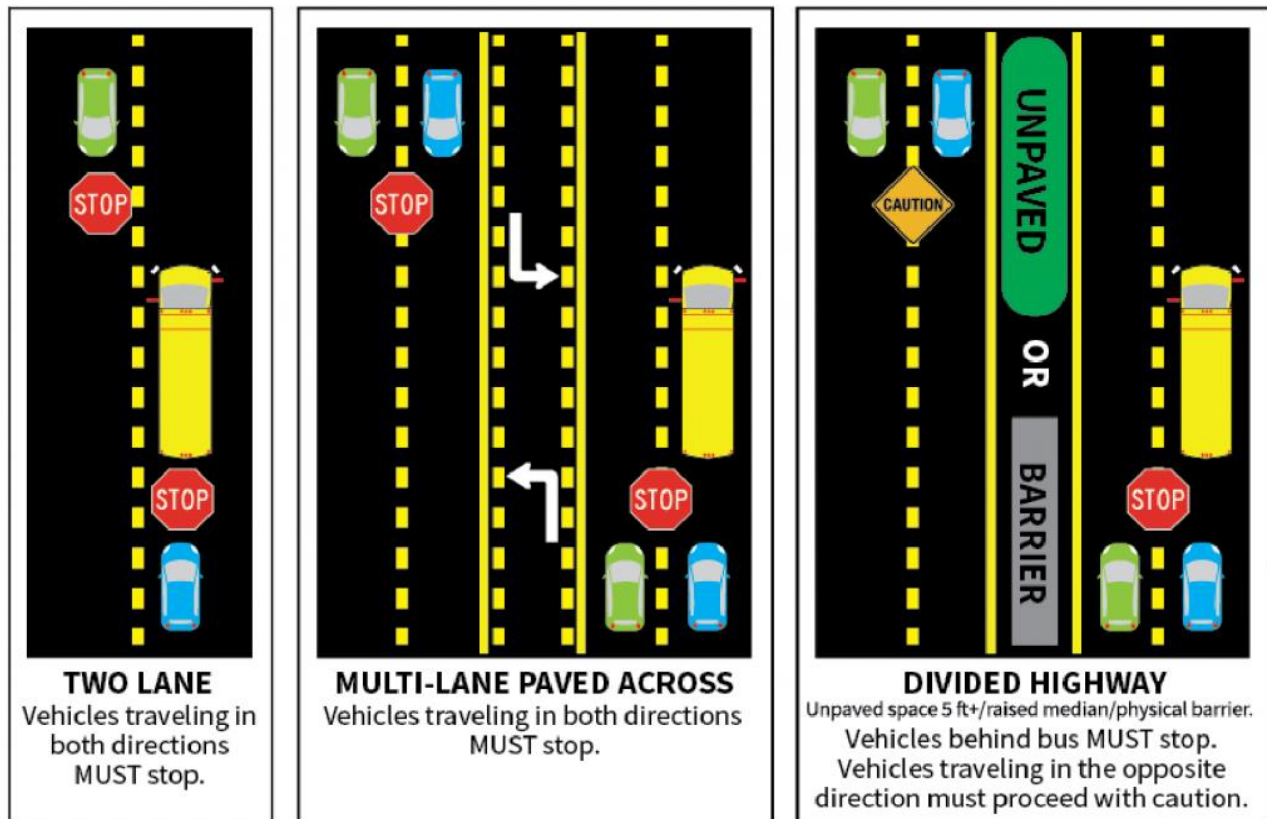
#### Background

##### School Buses and Traffic Laws

Law enforcement agencies are responsible for enforcing traffic laws, including school transportation related traffic violations. However, law enforcement officers (LEOs) are not always present along every school transportation route. Because LEOs cannot feasibly monitor each bus on every route each day, many school transportation traffic violations may go unenforced.

In Florida, a school bus must stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.<sup>1</sup> When possible, school buses should not stop where visibility is obscured for a distance of 200 feet from the bus.<sup>2</sup>

When approaching a stopped school bus displaying a stop signal, a driver must bring his or her vehicle to a full stop until the bus's signal is withdrawn.<sup>3</sup> However, a driver is not required to stop if his or her vehicle is traveling in the opposite direction of a stopped school bus on a divided highway with an unpaved space of at least five feet, a raised median, or a physical barrier.<sup>4</sup>



A person cited for failing to stop for a school bus displaying a stop signal commits a moving traffic violation<sup>5</sup> and is subject to a \$200 civil penalty.<sup>7</sup> A person cited for a moving violation may either pay

<sup>1</sup> S. 316.172(3), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> S. 316.172(1)(a), F.S.

<sup>4</sup> S. 316.172(2), F.S.

<sup>5</sup> Florida Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited Apr. 1, 2021).

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the civil penalty or request a hearing to contest the citation.<sup>8</sup> A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal also commits a moving violation, however, he or she is subject to a \$400 civil penalty<sup>9</sup> and must attend a mandatory hearing at a specified time and location.<sup>10</sup> A driver who illegally passes a stopped school bus and:

- Does not cause serious bodily injury or death to another, will receive six points on his or her driver license record.<sup>11</sup>
- Causes serious bodily injury or death to another, will receive six points on his or her driver license record and must:
  - Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents;
  - Participate in a victim's impact panel session; if such panel does not exist, the driver must attend a DHSMV-approved driver improvement course;<sup>12</sup> and
  - Pay a \$1,500 fine and have his or her driver license suspended by DHSMV for at least one year.<sup>13</sup>

When a driver accumulates a certain number of points on his or her driving record within a certain time period, his or her license is suspended, as follows:

- 12 points in 12 months = 30 day suspension.
- 18 points in 18 months = 3 month suspension.
- 24 points in 36 months = 12 month suspension.<sup>14</sup>

### Traffic Infraction Detectors

A traffic infraction detector is a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographs or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.<sup>15</sup>

In 2010, the Legislature authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to issue a traffic citation for a driver's failure to stop at a traffic control signal when such violation was identified by a traffic infraction detector.<sup>16</sup> The state is responsible for regulating the use of such cameras.<sup>17</sup>

A municipality may install or authorize installation of traffic infraction detectors on streets and highways in accordance with the Florida Department of Transportation (FDOT) standards, and on state roads within the incorporated area when permitted by FDOT.<sup>18</sup> A county may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by the

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<sup>6</sup> A moving violation is a classification of a type of traffic citation. The most common moving violations include speeding, running a red light, and driving while intoxicated. However, some moving violations may not actually require the vehicle to be in motion, as the name infers.

<sup>7</sup> In addition to this penalty, for a second or subsequent offense within a period of five years, the department shall suspend the driver license of the person for not less than 180 days and not more than one year. S. 318.18(5)(a), F.S.

<sup>8</sup> S. 318.14, F.S.

<sup>9</sup> In addition to this penalty, for a second or subsequent offense within a period of five years, the department shall suspend the driver license of the person for not less than 360 days and not more than two years. S. 318.18(5)(b), F.S.

<sup>10</sup> Ss. 316.172(1)(b) and 318.19(3), F.S.

<sup>11</sup> S. 322.27(3)(d)4.a.-b., F.S.

<sup>12</sup> S. 316.027(4)(b), F.S.

<sup>13</sup> S. 318.18(5)(d), F.S.

<sup>14</sup> S. 322.27(3), F.S.

<sup>15</sup> S. 316.003(95), F.S.

<sup>16</sup> See generally ss. 316.0083, and 316.0776, F.S.; Ch. 2010-80, Laws of Fla.; Any notification or traffic citation issued by using a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated. S. 316.003(95), F.S.

<sup>17</sup> S. 316.0076, F.S.

<sup>18</sup> Ss. 316.008(8) and 316.0776(1), F.S.

FDOT.<sup>19</sup> The DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of the FDOT, when permitted by the FDOT.<sup>20</sup>

If the DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must install signage notifying the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.<sup>21</sup> Such signage must meet the specifications for uniform signals and devices adopted by the FDOT under to s. 316.0745, F.S.<sup>22</sup>

### *Traffic Infraction Detector Litigation*

In 2018, the Florida Supreme Court held that the review of red light camera images authorized by Florida law allows city's private third-party vendor, as its agent, to review and sort red light camera images to forward to a LEO when:

- The vendor's decisions are essentially ministerial and non-discretionary in that such decisions are strictly circumscribed by the contract language, guidelines promulgated by the city, and actual practices;
- Such ministerial decisions are additionally restricted by a broad policy that requires the vendor to automatically forward "close calls" to law enforcement for review;
- The LEO, not the vendor, makes the actual decision whether probable cause exists and whether a notice and citation should be issued; and
- The LEO's decision that probable cause exists and that the citation should be issued are supported by the responsible LEO's full, professional review which does not merely acquiesce to any decision by the vendor.<sup>23</sup>

As such, s. 316.0083(1), F.S., authorizes a local government to contract with a third-party vendor to review and sort information and images from red light cameras before sending that information to a trained LEO. A LEO must then review the information and determine whether probable cause exists to issue a citation.

### School Bus Stop Arm Traffic Citations

According to DHSMV, in fiscal year 2018-19, 3,760 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus and 38 citations were issued for passing a school bus on the side children enter and exit.<sup>24</sup>

The Department of Education (DOE) created a statewide survey for bus drivers to complete regarding the illegal passing of their school buses. The survey results from 2019 show that on a single day, 12,749 illegal passes were made based on 10,136 school bus drivers completing the survey. Of these illegal passes, 526 were made on the right side of the bus where children generally enter and exit the vehicle, 11,316 were made on the left side, and for 526 instances, the side was unknown.<sup>25</sup>

The National Highway Traffic Safety Administration indicates that from 2009 to 2018, 249 school-age children died in school-transportation-related crashes.<sup>26</sup> Nearly half (49 percent) were struck by school buses or vehicles functioning as school buses, and 52 percent by other vehicles involved in the crashes.<sup>27</sup>

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<sup>19</sup> *Id.*

<sup>20</sup> S. 321.50, F.S.

<sup>21</sup> S. 316.0776(2), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *Jimenez v. State*, 246 So.3d 219 (Fla. 2018).

<sup>24</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2020 House Bill 37, p. 2 (Oct. 24, 2019).

<sup>25</sup> Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2019*, <http://www.fldoe.org/core/fileparse.php/18815/urlt/2019IllegalPassing.pdf> (last visited Apr. 1, 2021).

<sup>26</sup> National Highway Traffic Safety Administration, *2009-2018 Data: School Transportation-Related Crashes* (July 2020) <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812944> (last visited Apr. 1, 2021).

<sup>27</sup> *Id.* at 2.

To increase student transportation safety, many school districts in other states enforce such violations with side stop signal arm enforcement systems. These systems are typically equipped with multiple sensors and cameras affixed to a school bus. The sensor triggers a tag on the recording each time it senses a vehicle passing the stopped bus illegally.<sup>28</sup> When a vehicle illegally passes a stopped school bus, the sensor triggers two cameras to capture a high-definition digital video recording (DVR) from both directions. The cameras capture both oncoming traffic and vehicles passing the stopped bus on the driver side. The DVR recording is flagged as a violation and tags information for enforcement, including, but not limited to, the time, date, and location of the violation and images or film of the subject vehicle and license plate. The violation recordings captured are reviewed and processed by a third-party private manufacturer or vendor.<sup>29</sup>

Florida does not currently authorize the use of traffic infraction technology or school bus side stop signal arm enforcement systems to detect violations of school bus stop signals.

### **Effect of Proposed Changes**

HB 1199 creates s. 316.616, F.S., which authorizes, but does not require, a school district to install and operate a side stop signal arm enforcement system to enforce violations for failing to stop for a school bus displaying a stop signal.

Under the bill, a “side stop signal arm enforcement system” (enforcement system) means a camera system affixed to a school bus with two or more camera sensors or computers that produce recorded video and two or more film or digital photographic still images used to document motor vehicles failing to stop for a school bus displaying a stop signal.

Under the bill, a school district may contract with a private vendor to provide the installation, operation, and maintenance of the enforcement systems. The bill requires a private vendor to notify any law enforcement agency authorized to enforce school bus stop arm violations of any violation captured by the enforcement system within 30 days after the violation is captured and to submit the following information regarding the alleged violation:

- A copy of the recorded image showing the vehicle;
- The vehicle’s license plate number and state of issuance; and
- The date, time, and place of the alleged violation.

The bill requires a law enforcement agency that receives the required information from a private vendor to review the information and determine if there is sufficient evidence that a violation occurred. If the evidence shows that a violation occurred, the agency must electronically certify a notice of violation. Under the bill, a certificate of violation which is based on images produced by a bus stop enforcement system and sworn to by a LEO is considered prima facie evidence of the facts contained in it, and any image recorded by the system is admissible in any judicial or administrative proceeding to determine liability for the violation.

The bill authorizes the same civil penalty amounts a driver is subject to when he or she receives an in-person citation from a LEO, but provides that such penalties shall be paid to the school district in which the violation occurred. The school district must use the money received from the civil penalties for the installation and maintenance of the enforcement systems or for any other technology that increases the safety of student transportation.

The bill requires a law enforcement agency, within 30 days after receiving the violation packet from the private vendor, to send a notice of violation by registered mail to the registered owner of the vehicle found in violation, and mailing the notice is considered proper notification. The notice of violation must include:

- A copy of the recorded image showing the vehicle;

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<sup>28</sup> Seon Automated Stop-Arm Camera Solution, <https://www.seon.com/school-bus-safety/school-bus-camera-systems/stop-arm-system> (last visited Apr. 1, 2021).

<sup>29</sup> *Id.*

- A citation for the violation indicating the date, time, and location of the alleged violation;
- The amount of the civil penalty for the alleged violation;
- The date by which the civil penalty must be paid;
- A copy of the certificate produced by law enforcement after determining a violation occurred and a statement of inference therein;
- Instructions on how to request a hearing to contest the violation; and
- A warning that failure to pay the civil penalty or contest liability as instructed within 30 days after the notice is mailed to the vehicle owner shall waive the right to contest liability.

The bill establishes a rebuttable presumption that the registered owner of the vehicle in the image was the driver at the time of the alleged traffic violation. If the vehicle has multiple named owners, the notice of violation must be mailed to the first name appearing on the vehicle's registration.<sup>30</sup> If the vehicle's registered owner admits responsibility and pays the civil penalty, the case is disposed.

If the vehicle's registered owner does not contest the violation or pay the civil penalty within 30 days after the notice is mailed, the law enforcement agency or an authorized agent must mail the registered owner a final notice via registered mail informing the owner that continued failure to pay the civil penalty will prohibit the owner from renewing his or her registration or transferring the title of his or her vehicle. If the civil penalty is not paid within 30 days after the final notice is mailed, the law enforcement agency or an authorized agent must send a referral to the DHSMV prohibiting the vehicle's owner from renewing the registration of the vehicle or transferring the title of the vehicle to another person within the state until the penalty is paid. The referral to the DHSMV must include:

- Any information known or available to the referring law enforcement agency or authorized agent concerning the vehicle's license plate number, date of registration, and registered owner information;
- The date of the violation;
- The dates on which the required notice of violation and final notice were mailed; and
- The seal, logo, emblem, or electronic seal of the law enforcement agency.

The DHSMV must enter the referral into the motor vehicle database within five days after receipt of the referral, and must mail the vehicle's registered owner a notice informing the owner of the following:

- The registration of the vehicle involved in the violation cannot be renewed within the state;
- The title of the vehicle involved cannot be transferred within the state;
- The restrictions assessed are due to his or her failure to pay the civil penalty; and
- The procedure for removing the restrictions.

The DHSMV must lift the restrictions upon receiving proof of payment of the civil penalty.

The bill prohibits any bus stop enforcement system equipment from being used or able to be used for automated or remote controlled surveillance and requires the cameras and equipment to use technology ensuring that the recordings or images captured by the system do not identify the driver, any passenger, or the contents of the vehicle. However, a violation may not be dismissed because the video or still images identify any prohibited person, if a reasonable effort was made to comply with the prohibition.

The bill requires:

- All recordings and images captured through the system to be destroyed within 90 days from the time the matter is resolved or the case is closed;
- The private vendor to notify the school district, in writing, that the records were destroyed as required; and
- The vehicle's registered owner to be released from liability for the violation if his or her vehicle was reported stolen at the time of the violation.

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<sup>30</sup> If the first name on the registration is a business, the violation may be sent to the second name listed.

The bill provides that a violation issued through an enforcement system is not a moving violation, does not add points to a person's license, and is not part of a person's driving record. A violation may not be used for any purpose relating to motor vehicle insurance. If a driver receives a citation from a LEO for a moving violation arising from the same occurrence as that which is captured by the enforcement system, the driver is not liable for the civil penalty issued by the notice of violation.

#### *State Board of Education and School District Responsibilities*

The bill requires the State Board of Education (the "State Board") to create rules for the enforcement systems and create a mandatory schedule for systems to be tested no later than December 31, 2021. The bill gives the State Board the authority to adopt rules addressing student privacy concerns that may arise as a result of the enforcement systems and requires a school district to place a warning on every bus equipped with an enforcement system indicating that the bus is equipped with such system.

Each school district is responsible for the cost of purchasing, installing and maintaining the enforcement system and costs related to the service used by a private vendor to review footage and report violations. The school district is also responsible for ensuring the enforcement systems meet the requirements and specifications established by the State Board. The bill requires a school district that uses an enforcement system to provide an annual report regarding the use and operation of the system, including the number of citations issued and the amount of funds collected for the preceding fiscal year. The report must be provided to the Governor, President of the Senate, Speaker of the House of Representatives, and the DHSMV by December 31 each year.

The bill also amends s. 1006.21, F.S., to authorize a district school board to, after considering recommendations of the district school superintendent, install and operate or enter into an agreement with a private vendor or manufacturer to provide an enforcement system for each school bus in the school district.

The bill provides an effective date of July 1, 2021.

#### B. SECTION DIRECTORY:

**Section 1:** Creates s. 316.616, F.S., relating to school buses; side stop signal arm enforcement system.

**Section 2:** Amends s. 1006.21, F.S., relating to duties of district school superintendent and district school board regarding transportation.

**Section 3:** Provides an effective date of July 1, 2021.

### 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 bill authorizes school districts to contract with private third-party vendors to implement the enforcement systems authorized under the bill. As such, the bill will likely have a positive indeterminate fiscal impact on private vendors providing enforcement system installation and maintenance.

D. FISCAL COMMENTS:

The bill will likely have a neutral fiscal impact on school districts, as any funds received by the school district from a civil penalty imposed for a school bus stop arm violation captured by an enforcement system may only be used for installing and maintaining the enforcement systems or other student transportation safety technology.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill provides the State Board of Education with rule-making authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES