

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: CS/HB 485¹

49th Legislature, 1st Session, 2009

Short Title: Contractor-Owned School Bus Liens

Sponsor(s): Representatives Rhonda S. King, Jane E. Powdrell-Culbert, Jack E. Thomas and Others

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 485

Bill Summary:

CS/HB 485 amends current statute relating to contractor-owned school buses. Specifically, the bill amends the *Public School Finance Act* to:

- provide for the same procedures in the case of non-renewal of a transportation contract as for the termination of a contract;
- require a school district to file a lien with the Motor Vehicle Division of the Taxation and Revenue Department on every contractor-owned school bus under the contract on which the contractor owes money. The bill also provides that the lien must be recorded on the school bus title;
- prohibit a school bus contractor from refinancing or using a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the Public Education Department (PED);
- require that the school bus lien be collected and enforced as provided in the *Uniform Commercial Code*;
- require the school district to release its lien on the school bus:
 - when PED authorizes a replacement of the school bus; or
 - when the contractor has reimbursed the school district for any overpayments of rental fees to contractors; and
- specify that if a school district fails to take action to collect money it is owed when a school bus contract is terminated or not renewed, PED may deduct the amount from the district's transportation distribution.

Finally, CS/HB 485:

- amends the provisions of the *Public School Code* relating to the transportation of students to require PED, before approving a school bus contract, to verify that the school district has filed a lien on each school bus; and

¹ Version .178495.1

- provides that the bill applies to contracts, including contract renewals, entered into on or after June 19, 2009.

Fiscal Impact:

CS/HB 485 does not contain an appropriation.

Although the fiscal impact of CS/HB 485 is indeterminate, the bill could result in a cost savings to school districts in a situation like the following:

According to PED, one school district chose not to renew a bus contract only to find that the contractor had used the buses as collateral to secure a loan. As a result, the buses could not be transferred to the district, causing the district to incur an expense of \$1.6 million to purchase new buses so that the district could take over the transportation services.

Issues:

For rental fees, districts pay contractors in five years for buses used for 12 years, meaning that school districts initially make overpayments of rental fees.

The analysis of CS/HB 485 by PED states that:

- since 1996, school districts have experienced difficulty in collecting rental fee overpayments after school bus contracts were terminated or not renewed;
- in most cases, school buses are not transferred to the school district or the succeeding contractor; and
- as a result, school districts have incurred increased school bus replacement costs.

PED reports that a due process requirement exists in the case of a contract termination and adds that CS/HB 485 would require the same due process in the case of non-renewal of a contract.

Background:

The *Public School Finance Act* requires PED to establish procedures for the purchase of school bus transportation equipment. These procedures developed by PED include:

- a 12-year replacement cycle for school buses; and
- in the case of contractor-owned buses, a five-year schedule for the payment of rental fees.

If a school bus service contract is terminated, PED must calculate the remaining number of years that a bus could be used based on the 12-year replacement cycle and calculate a corresponding value.

Statute requires the school district to deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the contractor must reimburse the school district in an amount equal to the value calculated.

Related Bill:

*HB 205 *School District Bus Purchasing Authority*