

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on March 2, 2006 in Room 527-S of the Capitol.

All members were present except:
Anthony Hensley- excused

Committee staff present:
Hank Avila, Kansas Legislative Research Department
Bruce Kinzie, Revisors of Statutes
Maggie Breen, Committee Secretary

Conferees appearing before the committee:
B.J. Garcia, Durham Bus Services
Diane Gjerstad, Wichita Public Schools

Others attending:
See attached list.

Chairman Donovan said some of the committee also serve on the Elections and Local Government Committee and have already heard **SB 456**. The bill discusses open records dealing with people that drive school buses. Who can have access to the records and what parts of the records they can access. He asked Hank Avila, to do research and get the committee some statistics on how other states handle this particular situation.

Chairman Donovan opened the hearing on:

SB 456 - Open records; disclosure of certain records pertaining to drivers of motor vehicles transporting members of the public.

B.J. Garcia, Durham Bus Services, said Durham runs in about 18 school districts in Kansas. They run from a 400 bus operation in Wichita to a 4 bus operation in LaCrosse. They run nationally in 22 states. In Kansas they have about 1,000 employees and 99% of them are part-time employees who are employed as school bus drivers, monitors, or attendants. His believes that as a private company they have an obligation and commitment to their employees to protect their identity and not to make their information public. That's the difference of being run by a school district and being run contracted. While he can only speak for Durham, they run a screening process. They run a KBI check and, when they hire an employee that comes from another state, they also contract with an outside source that checks that state, as the KBI check doesn't always do that. As a company, they don't hire anyone who has a felony conviction; who has a conviction of a sexual offense of any nature; who has a conviction for drug possession, use, trafficking or manufacturing; who has convictions, misdemeanors or felonies, for assault or battery including domestic abuse; or who has a pattern of misdemeanor convictions. These are the company standards they operate under. They are a self-insured company that deals with the public and they take every measure they can to ensure their employees are the best people for the jobs. Another potential problem with **SB 456** is that a trucking company or another company that hires Commercial Drivers License (CDL) employees may recruit their employees if they open up their records. This would make their job harder and would adversely affect the areas they serve. His company feels strongly that they are doing the right things for their school districts and their customers, who are the parents of the school children they transport. (Attachment 1)

Senator Schmidt asked how many school bus contractors there were in the state. Mr. Garcia said he doesn't know the number as it varies from year to year. They range in size from an organization like his to little mom and pop operations. There are three really big contractors: Laidlaw Transit, First Student and Durham.

Diane Gjerstad, Wichita Public Schools, said they have contracted with Durham, for years and years, to provide student transportation. Several years ago a local television station approached their administration and requested a list of all the employees of the bus service because they basically wanted to verify background checks. The television station argued that the names were open under the open records act. The schools denied the request because they are not the custodian of the employee records. These are Durham's employees. That was the genesis of the bill. There was no information given to the superintendent to indicate that there had been anything inappropriate in the background of any of the drivers. They oppose the bill for a number

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on March 2, 2006 in Room 527-S of the Capitol.

of reasons. 1) The proponents say the bill is needed to protect kids, under the assumption that private businesses don't have the good business sense to adequately screen employees. Even if you agree, the bill doesn't change the employment requirements. 2) With the bill as written, the school district is caught in the middle. The Kansas Open Records Act (KORA) request is made to the school district, yet the private business holds the records. Who will be held responsible if the business doesn't comply? 3) Durham School Services is a national company that has a long history of safely transporting kids. Either by contract with the school district or by procedure, they are doing background checks and more. 4) The bill does not systematically solve any problems. If protecting kids is the goal, this bill is not the solution. The solution should address all bus drivers. The state licenses bus drivers. If we are concerned about who drives our buses, then it seems a more reasonable and comprehensive public policy would be to have the state screen applicants. Perhaps a KBI background check should be required prior to issuance of a CDL school bus endorsement. (Attachment 2)

Senator Journey asked Mr. Garcia if they did any checks after they hired bus drivers.

Mr. Garcia said they did annual checks of motor vehicle records and they have authority to do periodic checks of criminal background records. Currently in the state of Kansas, you have to run through an initial background check to drive a school bus but there is no requirement to do subsequent checks. But Durham runs checks annually or, on criminal records in larger areas, even every six months.

Senator Palmer asked Ms. Howard if there was anything in their contract that requires the bus company to do the checks.

Ms. Howard said their contract currently does not have that language since they knew they did it by procedure. However, they are now amending their contract and are in negotiations with Durham to include the language. It's her understanding that most other districts have it in their contracts.

Mr. Garcia said most contracts read that they will meet the state or local requirements for background and motor vehicle checks.

Senator Palmer questioned whether the information should be released due to the money being taxpayer dollars.

Ms. Gjersted said they are taxpayer dollars but they are a private company and there are many other services that are contracted for.

There was a discussion as to the requirements for the bus drivers that were hired directly by the schools and whether or not it would be feasible to have the Department of Revenue, who issues the CDL, do background checks as part of the licensing procedure.

Senator Apple voice a concern regarding opening up records of private companies to the public. Where do you start and where do you stop? He thinks we might be missing the mark if we do that. What we are after is providing the safest possible environment for our students. If the state had consistent methods of insuring that, we'd all be better served.

Jim Edwards, Kansas Association of School Boards, said there are no set guidelines for bus drivers and background checks are determined by the individual districts. It's the teachers that go through a background checks by the Department of Education (DOE) before they are granted their teaching license. That license is granted by the DOE.

Chairman Donovan referred to the committee minutes for January 25 and 31, and February 1, and 2.

Senator Wilson made a motion to approve the minutes as written. Senator Gilstrap seconded the motion. The motion carried.

The meeting adjourned at 9:04 a.m. The next meeting is scheduled for Tuesday, March 7, 2006.

**SENATE TRANSPORTATION COMMITTEE
GUEST LIST**

DATE: March 2, 2006

NAME	REPRESENTING
Jim Edwards	KA513
Larry R. Baker	LKM
Diane Gjerstad	USD 259
B.J. Garcia	Durham School Services
David R. Corbin	KDOR
Rocky	KDOT
Row Butts	KPTA
Ric Anderson	Topeka Cap-Journal

RE: KANSAS SENATE BILL 456
FEBRUARY 9, 2006

Durham School Services is a school bus contractor that serves eighteen School Districts in Kansas. We employ over one thousand people throughout those eighteen School Districts.

In regards to the legislation that would require private school bus contractors to make available personal employee information (i.e. name, compensation level, criminal background, motor vehicle record) to the public. I would ask that you review the following:

- 1 Durham School Services as a private company has a commitment and obligation to our employees, to protect their personal and private information. As a company we go to great lengths to ensure that our employee's privacy and identity are protected.
- 2 Public access to this information would present some potential staffing problems for school bus contractors. A company seeking employees with a CDL would now have access to our employee names, and could use this as a recruiting tool to enhance their staffing levels.
- 3 Durham School Services currently runs background checks on all applicants who apply for employment. Additionally all applicants must meet the following company standards for criminal records:
 - o No felony convictions
 - o No convictions for sexual offenses of any nature
 - o No convictions for drug possession, use, trafficking or manufacturing
 - o No convictions for assault or battery, including domestic abuse
 - o No pattern of misdemeanor convictions
- 1 Lastly, I would ask that you examine the true nature and intent of this legislation. Who will this legislation benefit and who will it harm? What benefit does it have to your 65 year old next door neighbor, who is retired, driving a bus and truly helping the community? What benefit will he or she see from having their personal information in the front page of tomorrow's newspaper?
THE ANSWER IS NONE.

Thank you,

B.J. Garcia
Durham School Services
125 N Market #1475
Wichita, KS 67202



Senate Transportation Senator Donovan, chair

S.B. 456 employee records of private businesses

Diane Gjerstad
Wichita Public Schools
March 2, 2006

Mr. Chairman and members of the Committee:

The bill before the committee was introduced by the Broadcasters in an effort to include private businesses providing school bus services employee records under KORA. In its original form the bill required districts contracting bus services to provide a very broad range of information upon a KORA request about the employees of the private contractor, including any misdemeanors or felony offenses. Senate Elections amended the bill to only require name of drivers to be released in a KORA request. The bill was re-referred last week to this committee.

The Wichita Public Schools has a long history of contracting transportation services. Durham School Services, represented by B.J. Garcia, is the district's contractor. Several years ago the district was approached by a local television station requesting under KORA the names of drivers employed by Durham School Services serving Wichita schools; the television station argued the names were open under KORA. The district denied the request because it is not the employer and does not maintain employee records of *any* private company doing business with the district.

The district **opposes** this bill as introduced and as amended for a number of reasons:

- The proponents argue the bill is needed to protect children under the assumption private businesses do not have the good business sense to adequately screen employees who drive school buses. Even if one agrees with the theory, the bill doesn't change the requirement for employment for bus drivers.
- As written school districts are caught in the middle because the KORA request is made of the school district yet the private business holds the records. When a KORA request is made the clock starts ticking, we have 3 days to respond. Who is held responsible if the business doesn't comply?
- Durham School Services is a national company with a long history of safely transporting students to schools. Durham and the other large contractors, either by contract or by procedure, carefully screen applicants using several sources.
- The bill does not offer any systematic protection. If the local television station requests the names of Wichita's Durham drivers, how does that 'protect' Topeka or Shawnee Mission or Independence? If protecting kids is the goal, this bill is not the solution. A solution would be applied uniformly across all districts.

Mr. Chairman, if the purpose is truly to protect kids then any change should address all bus drivers. The *state* licenses bus drivers, if we are concerned about who is driving buses then it seems a more reasonable and comprehensive public policy to have the state screen applicants. Perhaps a KBI background check should be required prior to issuance of a CDL school bus endorsement. That would ensure all school districts in the state would have the extra assurance their CDL licensed drivers do not have any inappropriate convictions in their past.

Thank you, Mr. Chairman, we stand ready to assist the committee.