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FISCAL IMPACT REPORT

SPONSOR: Picraux DATE TYPED: 03/12/01 HB 692/aHGUAC/aHF1 #1
 SHORT TITLE: Regulation of Commuter Vanpools SB _____
 ANALYST: Wilson

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|--------|----------------------------|-------------------------|------------------|
| FY01 | FY02 | | | |
| | \$ 2.5 | | Recurring | OSF |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Public Regulation Commission (PRC)
 State Highway and Transportation Department (SHTD)

SUMMARY

Synopsis of HF1 #1 Amendment

HB 692/aHF1 #1 adds a requirement for a drug testing program and gives a general description of how it should operate.

Synopsis of HGUAC Amendment

HB 692/aHGUAC amends the definition of “commuter vanpool” from a “not-for-profit, not-for-hire” to a vanpool “where participation is open to the public and incidental to the primary work or training-related purposes of the individuals in the group.” The definition goes on to describe the existing situation in which employees drive, but are not part of a commercial operation. The amendment also changes the insurance requirements and some of the regulatory requirements in order to make the law more compatible and streamlined to the usage of a “commuter vanpool.”

Synopsis of Original Bill

HB 692 amends the Motor Carrier Act by removing commuter vanpools from the definition of “common motor carrier,” and creates a new class of motor carrier entitled “commuter vanpool.” It requires commuter vanpool operators to obtain a certificate of registration from the before operating, and limits the PRC’s authority to regulate this type of motor carrier. HB 692 has an emergency clause.

Significant Issues

The PRC claims that the definition of “commuter vanpool” uses terms that are undefined and, therefore, a potential subject of confusion or litigation. The new material materially alters the manner by which motor carriers demonstrate proof of insurance. HB 692 authorizes the PRC to cancel a certificate of registration to a commuter vanpool for “other causes,” only after a hearing, but without defining “other causes.”

The PRC also noted that HB 692 adds a definition which may create confusion regarding who is entitled to take advantage of the procedure created for commuter vanpools. For example, “commuter vanpool” means a volunteer-driver commuter group. However, when is a driver a volunteer? The definition is confusing if volunteer means uncompensated. Black’s Law Dictionary defines “compensation” as indemnification; payment of damages; making amends; making whole; giving an equivalent or substitute of equal value. Vanpool drivers are not volunteers if they exchange driving service for free transportation service. They are substituting driving for the free transportation and are, therefore, compensated .

Currently, the PRC accepts as proof of insurance a uniform filing form E or MTD-A with uniform endorsement form F, for public liability insurance; or a surety bond; or a binder issued by a company authorize to do surety or insurance business; or a certified statement from the Superintendent of Insurance that the person has met all requirements to be self insured. In HB 692, an applicant may demonstrate proof of insurance by “some other showing” of coverage for public liability insurance. What other showing of coverage may be sufficient is unknown.

In HB 692, a certificate may be canceled “for other causes after a hearing” without defining other causes. Failure to operate under the certificate for twelve consecutive months subjects the certificate to cancellation. However, this sets a new and different standard for abandonment of an operating authority from other motor carriers.

FISCAL IMPLICATIONS

The PRC estimates \$2.5 in revenue based on ten applications at a fee of \$250 per filing for the first year, and one new application each succeeding year.

SHTD has a request for proposals for a vanpool administrator. SHTD is currently funded for the administrator and testing costs and is not seeking additional funds for HB 692. The vanpool administrator will own or lease vehicles, set up vanpool groups, arrange for insurance and maintenance. With this service SHTD hopes to set up a large number of vanpools along the Pojoaque corridor leading to Los Alamos. Drivers will be commuters that volunteer to drive in exchange for a ride to work. This bill will have a minor fiscal impact on this contract since it will eliminate the substance abuse testing requirement. Cost estimates for substance abuse testing under the proposed contract are \$2,000.

ADMINISTRATIVE IMPLICATIONS

HB 692 has very little administrative impact to PRC. The few anticipated applications would have a negligible impact on workload.

OTHER SUBSTANTIVE ISSUES

SHTD says that the current regulations for common motor carriers include commuter vanpools. The

PRC has required commuter vanpool organizations to obtain a passenger warrant to operate in New Mexico. The passenger warrant forms, regulations and requirements do not match the operational characteristics of commuter vanpools. This has meant that passenger warrants can only be granted by providing a series of administrative exemptions. While recognizing the need to regulate commuter vanpool operations, HB 692 attempts to create a separate category that specifically addresses the needs of commuter vanpool programs. HB 692l proposes that commuter vanpool organizations submit proof of insurance and vehicle inspection certificates to the PRC an annual basis. Since drivers of commuter vanpools are not employees of the vanpool operator, the bill does not include a requirement for substance abuse testing.

DW/ar