

## **PUBLIC FUNDS FOR TRANSPORT OF NONPUBLIC SCHOOL STUDENTS**

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**House Bill 5753 (H-1) as reported from committee**  
**Sponsor: Rep. Amanda Price**  
**Committee: Education**  
**Complete to 9-13-16**

Analysis available at  
<http://www.legislature.mi.gov>

### **REVISED FLOOR SUMMARY:**

House Bill 5753 would amend the requirements listed in Revised School Code which must be met before a school district may provide transportation for a nonpublic school student. The bill would remove one of the three requirements and revise another.

Currently, the Code lists three requirements which must be met in order for the school district to provide transportation for the student in question:

- The district provides transportation to the school level in which the pupil is enrolled.
- *The pupil is a person for whom the school district is eligible to receive state school aid for transportation.*
- The pupil is attending either the public or the nearest state-approved nonpublic school in the district to which the pupil is eligible to be admitted.

The bill would remove the italicized requirement, but retain the other two. As described below, this change is codifying standard practice, because Section 76 of the School Aid Act specifies that schools that received funds for transportation prior to 1993-1994 must pay for the transportation of nonpublic school pupils out of their foundation allowance.

Additionally, the bill would change the third requirement to read: *The pupil is attending either a public or state-approved nonpublic school in the district to which the pupil is eligible to be admitted.* There is some disagreement as to whether the change will have an effect. Some interpret changing the language from "the" public school to "a" public school as expanding transportation requirements to include charter public schools in addition to traditional public schools.

Furthermore, it is unclear whether removing the requirement that the nonpublic school be "the nearest" state-approved nonpublic school in the district would expand the transportation that a district must provide. The change made by the bill would align with the Michigan Administrative Code (R 340.281(1)(d)), which says "the boards of education of school districts shall not establish the attendance areas of nonpublic schools."

The bill would take effect 90 days after enactment.

MCL 380.1321

## **BACKGROUND:**

Article VIII, Section 2 of the Michigan Constitution of 1963, which enumerates the prohibited aid to nonpublic schools, provides that *"The legislature may provide for the transportation of students to and from any school."*

Public Act 145 of 1993, along with accompanying statutory revisions, better known as Proposal A, changed the funding model for Michigan schools. Prior to that time, local property taxes were the primary funding source used to fund schools, with the funding for districts varying widely. Proposal A shifted the primary funding source to state funds. The School Aid Fund (SAF), which prior to Proposal A had been disbursed through a tax equal yield formula along with categorical funding for specific costs, after Proposal A was primarily disbursed through the per-pupil "foundation allowance" to each school district based on the number of pupils enrolled. Many of the categorical funds, including those for transportation, were rolled into district foundation allowances.

Public Act 130 of 1995 provided that if a district received money for (non-special education) transportation before Proposal A, the district must use the foundation allowance (calculated yearly and enumerated in Section 20 of the State School Aid Act) as the funding for transporting nonpublic school students after that time. That provision, Section 76 of the State School Aid Act, follows:

*If a district received money in 1993-94 attributable to nonspecial education transportation under former section 71 and that money was included in calculating the district's combined state and local revenue per membership pupil in 1993-94 under section 20(21), as that section was in effect for 1994-95, then the district shall use funding as calculated under section 20 as the funding for transporting nonpublic school students as required under section 1321 of the revised school code, MCL 380.1321.*

The following report provides additional information on funding for nonpublic school pupils in Michigan:

Citizens Research Counsel of Michigan, *State Support of Nonpublic School Students*, CRC Memorandum, No 1126, January 2014

[http://cremich.org/PUBLICAT/2010s/2014/state\\_support\\_nonpublic\\_students-2014.pdf](http://cremich.org/PUBLICAT/2010s/2014/state_support_nonpublic_students-2014.pdf)

## **FISCAL IMPACT**

The bill would have no fiscal impact on the State but could create additional costs for local school districts.

Updating the Revised School Code to align with the requirement in the School Aid Act would create no fiscal impact because districts have been expected to provide transportation to nonpublic students with their foundation allowance funds under Section 76 of the School Aid Act ever since Proposal A rolled transportation funding into foundation allowances.

If revising statute to strike "nearest" nonpublic school aligns with administrative rules and practice regarding location on nonpublic schools, then the bill would have no fiscal impact on local districts. However, there is debate about whether R 340.281 requires a district to transport pupils to any nonpublic school regardless of location, and if not, the bill could increase costs to local districts by increasing the distance they must transport nonpublic students.

If revising "the public school" to "a public school" were interpreted as an expansion to providing transportation to public school academy (PSA) pupils, then the bill could create significant added costs to local school districts. PSAs enroll over 150,000 pupils and there are no data available to determine for how many pupils they are providing transportation, and whether those that do would shift their transportation to the local district under such an interpretation.

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