

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

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**House Bill 5753 as enacted**  
**Public Act 428 of 2016**  
**Sponsor: Rep. Amanda Price**  
**House Committee: Education**  
**Senate Committee: Education**  
**Complete to 1-23-17**

**BRIEF SUMMARY:** The bill aims to resolve confusion about a school district's responsibility to provide transportation for nonpublic school students. The School Aid Act requires districts that received transportation funds prior to Proposal A to pay for the transportation of nonpublic school students out of their foundation allowance. This bill would ensure that the Revised School Code also reflects that practice. The bill takes effect April 4, 2017.

**FISCAL IMPACT:** The bill would have no fiscal impact on the state or on local school districts. Since Proposal A rolled transportation funding into foundation allowances, districts are expected to provide transportation to nonpublic students with their foundation allowance funds under Section 76 of the School Aid Act.

### ***THE APPARENT PROBLEM:***

According to committee testimony, the communities of St. John's, Mt. Pleasant, and Algonac have all considered restricting transportation for nonpublic school students, and the Michigan Department of Education frequently receives questions from districts on this issue.

### ***THE CONTENT OF THE BILL:***

House Bill 5753 would amend the Revised School Code (MCL 380.1321) to remove one of the three requirements which must be met before a school district may provide transportation for a nonpublic school student. Prior to enactment of the bill, the Code listed the following three requirements:

- 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 a public or state-approved nonpublic school in the district to which the pupil is eligible to be admitted.

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

## **BACKGROUND INFORMATION:**

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)

## **ARGUMENTS:**

### ***For:***

As noted earlier, the bill aims to make provisions regarding pupil transportation consistent between the State School Aid Act (the funding statute) and the Revised School Code (the general policy statute) so as to resolve confusion about a school district's responsibility to provide transportation for nonpublic school students. By amending the School Code, both acts would require districts that received transportation funds prior to Proposal A to pay for the transportation of nonpublic school students out of their foundation allowance.

***Against:***

Opponents of this bill argued that any discussion about school transportation should address the concerns of adequate funding, access, and efficiency. While most districts provide transportation to students, there is no maximum distance a child must walk to the bus stop or maximum riding time for children in kindergarten through grade twelve.<sup>1</sup> Some students spend hours on multiple buses in order to travel to and from school. Any policy discussion intended to clarify current law should also assess whether that current law is worth retaining, say critics.

Alternatively, say opponents, there should be categorical funding for transportation. Categorical funding was eliminated with the adoption of Proposal A, with funding for transportation "rolled into" the district foundation allowance. Because of that, there is concern that the funding intended for transportation is insufficient—with its insufficiency masked by various other mandates—or is diverted to other purposes.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>1</sup> Michigan Department of Education Frequently Asked Questions, [http://www.michigan.gov/mde/0,4615,7-140-6530\\_6569\\_38338-137337--,00.html](http://www.michigan.gov/mde/0,4615,7-140-6530_6569_38338-137337--,00.html)