



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

JUN 28 1990

SCHOOL DISTRICT PUPIL TRANSPORTATION

House Bill 5577 (Substitute H-2)
First Analysis (5-21-90)

Sponsor: Rep. William R. Keith
Committee: Education

THE APPARENT PROBLEM:

The School Code specifies that a school district which provides transportation for its resident pupils must provide transportation for each resident pupil "in the elementary and secondary grades" for whom the district is eligible to receive school aid for transportation. This provision was cited in a recent court case involving the Oak Park Public School District where parents with children in grades 9-12 sued the district because it provides transportation only for students in grades K-8. The presiding judge interpreted the legislative intent of this portion of the act as mandating that a district either "not provide transportation for its resident pupils or . . . provide transportation for each of its elementary and secondary resident pupils." Some people feel this opinion not only overlooked the intent of the act, which, they argue, is (and has been) to allow a school district latitude in determining just what type of transportation services to provide to its district residents, but also established an all-or-nothing situation for some districts that do not have the financial resources to bus all students. Further, the provision cited in the opinion, some feel, was misapplied as this portion of the act deals specifically with a district's responsibility to bus non-public school resident pupils in the same grade level as public school pupils provided transportation services. Consequently, some feel legislation is needed to clarify the act's intent regarding a school district's responsibility in providing transportation to its resident pupils.

THE CONTENT OF THE BILL:

The bill would amend the School Code to clarify that a school district that provided transportation to its resident pupils (except for handicapped pupils, who are dealt with in another portion of the act) would have to provide transportation for each resident pupil for whom the district was eligible to receive state school aid for transportation in an elementary or secondary grade for which the district provided transportation.

MCL 380.1321

FISCAL IMPLICATIONS:

According to the Department of Education, the bill would not affect state expenditures but could have fiscal impact to local schools. The ruling in the Oak Park court case could cause some districts to discontinue similar busing programs (or else offer transportation to both elementary and high school pupils) although it could not be determined how many districts might be affected. As the bill would protect these districts from having to make this decision, its fiscal impact would depend on each district's specific circumstances. (5-16-90)

ARGUMENTS:

For:

The bill would clarify that portion of the code which deals with a school district's responsibility to provide transportation to all resident pupils of the same grade level

(including non-public school students) when transportation is provided at all. This provision was cited in a recent circuit court case involving the Oak Park School District regarding whether the district should be required to offer transportation to all students in the district and not just to those in grades K-8. Included within the ruling judge's opinion was a statement explaining the responsibility of the court to "ascertain the intent of the legislature giving the words used their ordinary and normally accepted meanings;" the opinion concluded that the act "must be enforced as written." Despite the historical record, in which school districts have been allowed to decide whether or not to even provide transportation, and if so to which grades, the judge consequently ruled that the act requires either that Oak Park not provide transportation for its resident pupils at all or provide it to all resident pupils at both the elementary and secondary grade levels. By clarifying the intent of this portion of the act, the bill could prevent an unfortunate situation in which certain poorer districts, as a result of the ruling, may have to choose either to provide transportation services for all grades or none.

Against:

The proposed "clarifying" language would make the section even more difficult to decipher. The act now states: "A board of a school district providing transportation for its resident pupils . . . shall" provide transportation for both resident and nonresident pupils in the elementary and secondary grades in the district. In other words, a school district board can choose to either provide or not provide transportation; if so, the law is intended to mean (so say the bill's proponents) that the district must then make it equally available to both public and nonpublic pupils, but not necessarily for pupils in all grades. The bill fails to make that intent clear. It merely would move a qualifying clause within the existing sentence to another place in the sentence and add another qualifying clause — resulting in even more confusing language.

POSITIONS:

The Oak Park School District supports the bill. (5-15-90)

The Department of Education supports the concept of the bill. (5-16-90)

H.B. 5577 (5-21-90)