

B-Engrossed House Bill 3014

Ordered by the House June 2
Including House Amendments dated April 4 and June 2

Sponsored by Representatives PHAM K, NERON, NGUYEN H, GAMBA, NOSSE, SMITH G; Representatives ANDERSEN, BOWMAN, DEXTER, FAHEY, GRAYBER, LEVY B, LEVY E, MARSH, NELSON, RESCHKE, REYNOLDS, TRAN, Senators CAMPOS, DEMBROW, JAMA, STEINER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs State Board of Education to adopt rules that allow for reimbursement of school district expenses incurred for alternative transportation costs. Prohibits reimbursements that are greater than amount school district would have received if school district had provided transportation that is not alternative transportation.

A BILL FOR AN ACT

1
2 Relating to approved transportation costs for school districts; creating new provisions; and amend-
3 ing ORS 327.033 and 327.043.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 327.033 is amended to read:

6 327.033. *[(1) As used in this section, "retrofit" and "Environmental Mitigation Trust Agreement"*
7 *have the meanings given those terms in ORS 468A.795.]*

8 **(1) As used in this section:**

9 **(a) "Active transportation" means the arrival to, or departure from, a school by students**
10 **who:**

11 **(A) Reside less than three miles from school; and**

12 **(B) Use human-powered forms of travel, including walking or bicycling.**

13 **(b)(A) "Active transportation costs" means costs incurred by a school district for facili-**
14 **tating the use of active transportation, including costs incurred for:**

15 **(i) A pedestrian or bicycle group;**

16 **(ii) A crossing guard; or**

17 **(iii) Staff time required for coordinating active transportation options.**

18 **(B) "Active transportation costs" does not include costs incurred by a school district for:**

19 **(i) Subcontracting the school district's transportation services to a private transporta-**
20 **tion provider; or**

21 **(ii) The time of an individual who is not an employee of the school district.**

22 **(c)(A) "Alternative transportation" means the arrival to, or departure from, a school by**
23 **students using active transportation or public transportation.**

24 **(B) "Alternative transportation" does not include transportation that is subcontracted**
25 **by a school district to a private transportation provider.**

26 **(d) "Alternative transportation costs" includes:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Active transportation costs; and

2 (B) Costs incurred by a school district for public transportation, including costs incurred
3 for staff time required for coordinating public transportation options.

4 (e) "Environmental Mitigation Trust Agreement" has the meaning given that term in
5 ORS 468A.795.

6 (f) "Public transportation" means forms of transportation that are provided by a public
7 entity, charge set fares, run on fixed routes and are available to the public.

8 (g) "Retrofit" has the meaning given that term in ORS 468A.795.

9 (h) "Suitable and sufficient" means transportation that is appropriate for a particular
10 student or group of students based on:

11 (A) The age of the student;

12 (B) The physical or mental capabilities of the student;

13 (C) The distance the student is to be transported; and

14 (D) The safety of the student to be transported.

15 (2)(a) The State Board of Education shall adopt rules to determine the amounts to re-
16 imburse a school district for costs incurred by the school district in transporting students
17 described in ORS 327.006 (2)(a).

18 (b) The rules adopted under this subsection must allow for the reimbursement of alter-
19 native transportation costs that are approved transportation costs in an amount that does
20 not exceed five percent of the school district's transportation grant under ORS 327.013. Al-
21 ternative transportation costs are considered approved transportation costs if:

22 (A) The use of alternative transportation is included as part of a supplemental plan ap-
23 proved by the State Board of Education, as provided by ORS 327.043; or

24 (B) The use of alternative transportation is included as part of a waiver approved by the
25 State Board of Education, as provided by ORS 327.043.

26 (c) Notwithstanding paragraph (b) of this subsection and subject to paragraph (d) of this
27 subsection, alternative transportation costs related to public transportation are approved
28 transportation costs only if the school district submits sufficient documentation to establish
29 that:

30 (A) No other transportation options, including active transportation options, are suitable
31 and sufficient;

32 (B) The school district engaged in efforts to recruit, and was subsequently unable to hire,
33 sufficient workforce to ensure:

34 (i) Reliable service by a school bus; and

35 (ii) Timely transport of students to and from school; and

36 (C) The school district conducted a good faith effort to hire, train and retain drivers of
37 school buses in a manner that included competitive wages and hiring practices consistent
38 with applicable collective bargaining agreements.

39 (d) If, during the 2022-2023 school year, costs incurred by a school district for transit
40 passes were considered approved transportation costs, the costs incurred by the school dis-
41 trict after the effective date of this 2023 Act for transit passes shall continue to be consid-
42 ered approved transportation costs.

43 [(2)] (3) Approved transportation costs shall be estimated for the year of distribution.

44 [(3)] (4) In determining approved transportation costs related to school buses, the State Board
45 of Education:

1 (a) Shall include depreciation of original cost to the school district of district-owned buses, not
2 in excess of 10 percent per year;

3 (b) Shall include the costs to repower, retrofit or replace school buses powered by diesel engines
4 for the purpose of reducing or eliminating diesel engine emissions, except that the board may not
5 include the costs paid with moneys received from the state by a school district from the Clean
6 Diesel Engine Fund under ORS 468A.801 (2)(a) to repower, retrofit or replace school buses powered
7 by diesel engines for the purpose of reducing or eliminating diesel engine emissions; and

8 (c) Shall include costs to school buses powered by diesel engines as allowed in the Environ-
9 mental Mitigation Trust Agreement, except that the board may not include costs paid from the En-
10 vironmental Mitigation Trust Agreement in the calculation of the transportation grant computed as
11 provided in ORS 327.013.

12 [(4)] (5) School districts shall account separately for those funds received from the State School
13 Fund attributable to the costs included under subsection [(3)] (4) of this section, and expenditure
14 of those funds shall be limited as follows:

15 (a) The expenditure of funds attributable to costs under subsection [(3)(a)] (4)(a) of this section
16 shall be limited to the acquisition of new buses.

17 (b) The expenditure of funds attributable to costs under subsection [(3)(b)] (4)(b) and (c) of this
18 section shall be limited to the costs to repower, retrofit or replace school buses powered by diesel
19 engines for the purpose of reducing or eliminating diesel engine emissions.

20 [(5)] (6) The transportation grant computed as provided in ORS 327.013 when combined with
21 costs paid from the Environmental Mitigation Trust Agreement to replace school buses powered by
22 diesel engines may not exceed the purchase price of the buses for which the funds described in this
23 subsection were received.

24 **SECTION 2.** ORS 327.043 is amended to read:

25 327.043. (1) **As used in this section, “alternative transportation,” “public transportation”**
26 **and “suitable and sufficient” have the meanings given those terms in ORS 327.033.**

27 [(1)] (2) A school district is required to provide transportation for elementary **school** students
28 who reside more than one mile from school and for secondary school students who reside more than
29 1.5 miles from school. A **school** district is also required to provide transportation for any student
30 identified in a supplemental plan approved by the State Board of Education.

31 [(2)] (3)(a) Notwithstanding subsection [(1)] (2) of this section, the State Board of Education may
32 waive the requirement to provide transportation **to elementary and secondary students under**
33 **paragraph (b) of this subsection.**

34 (b) **The State Board of Education may waive the requirement to provide transportation:**

35 (A) **For some or all of the elementary school students who reside more than one mile**
36 **from school only if the school district that seeks the waiver provides suitable and sufficient**
37 **alternative transportation to the elementary school students for whom the school district**
38 **seeks the waiver. A school district that seeks a waiver under this subparagraph must pres-**
39 **ent to the board a plan for providing suitable and sufficient alternative transportation to the**
40 **elementary school students. Public transportation is not considered suitable and sufficient**
41 **for elementary school students.**

42 (B) **For secondary school students who reside more than 1.5 miles from school only if the**
43 **school district provides or identifies suitable and sufficient alternative transportation for**
44 **transporting secondary school students. A school district that seeks a waiver under this**
45 **subparagraph must present to the board a plan for providing or identifying suitable and sufficient**

1 *[alternate modes of]* **alternative transportation** for transporting secondary school students.

2 (4) **When submitting to the State Board of Education a supplemental plan or a waiver**
3 **request that includes alternative transportation and that seeks reimbursement for costs in-**
4 **curring in providing alternative transportation, a school district must include:**

5 (a) **A comparison of:**

6 (A) **The school district's projected approved transportation costs to serve students with-**
7 **out alternative transportation; and**

8 (B) **The school district's projected approved transportation costs if alternative transpor-**
9 **tation is approved.**

10 (b) **For a supplemental plan or a waiver that proposes to use alternative transportation**
11 **for one or more routes not previously included in a supplemental plan or a waiver, an ex-**
12 **planation of why the school district has determined that the use of alternative transportation**
13 **for the route is necessary.**

14 (c) **For a waiver request that proposes to use public transportation for secondary school**
15 **students, an explanation of how:**

16 (A) **The use of public transportation qualifies for approved transportation costs under**
17 **ORS 327.033 (2)(c);**

18 (B) **Any financial support provided by a local transit district according to ORS 184.758**
19 **will be used prior to the school district incurring additional expenses; and**

20 (C) **The school district conducted a good faith effort to hire, train and retain drivers of**
21 **school buses in a manner that included competitive wages and hiring practices consistent**
22 **with applicable collective bargaining agreements.**

23 (5) **The State Board of Education may approve a supplemental plan or a waiver request**
24 **to use alternative transportation and to provide reimbursement for costs incurred in pro-**
25 **viding alternative transportation only when:**

26 (a) **The projected approved transportation costs under subsection (4)(a)(B) of this section**
27 **are the same as or less than the projected transportation costs under subsection (4)(a)(A)**
28 **of this section; or**

29 (b) **The applying school district adequately demonstrates that any expenses incurred in**
30 **excess of subsection (4)(a)(A) of this section that are attributable to alternative transpor-**
31 **tation will be paid with funds other than the transportation grant from the State School Fund.**

32 (6) **Notwithstanding subsection (4) of this section, a school district may request a waiver**
33 **that includes alternative transportation without providing the additional information re-**
34 **quired under subsection (4) of this section if the school district does not seek reimbursement**
35 **for costs incurred in providing the alternative transportation.**

36 (7) **When the State Board of Education approves a supplemental plan or waiver request**
37 **to use alternative transportation and provides reimbursement for costs incurred in providing**
38 **alternative transportation, the approved supplemental plan or waiver shall be effective for**
39 **two years from the date of approval.**

40 (8) **Notwithstanding subsections (4), (5) and (7) of this section, a school district that, prior**
41 **to the effective date of this 2023 Act, had been receiving reimbursement for costs incurred**
42 **in providing transit passes under a supplemental plan or a waiver shall continue to receive**
43 **reimbursement under the terms and conditions the school district was receiving reimburse-**
44 **ment prior to the effective date of this 2023 Act unless the State Board of Education and the**
45 **school district agree otherwise.**

1 **(9) Nothing in this section prevents a school district from providing alternative trans-**
2 **portation in addition to otherwise required transportation when no reimbursement is sought**
3 **for costs incurred in providing the alternative transportation.**

4 **SECTION 3. (1) The amendments to ORS 327.033 and 327.043 by sections 1 and 2 of this**
5 **2023 Act become operative on July 1, 2024.**

6 **(2) The amendments to ORS 327.033 and 327.043 by sections 1 and 2 of this 2023 Act apply**
7 **to approved transportation costs incurred on or after July 1, 2024.**

8 **(3) The State Board of Education, the Department of Education and school districts may**
9 **take any action before the operative date set forth in subsection (1) of this section to enable**
10 **school districts to be reimbursed for approved transportation costs incurred on or after July**
11 **1, 2024.**

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