

Enrolled House Bill 3014

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

CHAPTER

AN ACT

Relating to approved transportation costs for school districts; creating new provisions; and amending ORS 327.033 and 327.043.

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

SECTION 1. ORS 327.033 is amended to read:

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

(1) As used in this section:

(a) “Active transportation” means the arrival to, or departure from, a school by students who:

- (A) Reside less than three miles from school; and**
- (B) Use human-powered forms of travel, including walking or bicycling.**

(b)(A) “Active transportation costs” means costs incurred by a school district for facilitating the use of active transportation, including costs incurred for:

- (i) A pedestrian or bicycle group;**
- (ii) A crossing guard; or**
- (iii) Staff time required for coordinating active transportation options.**

(B) “Active transportation costs” does not include costs incurred by a school district for:

(i) Subcontracting the school district’s transportation services to a private transportation provider; or

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

(c)(A) “Alternative transportation” means the arrival to, or departure from, a school by students using active transportation or public transportation.

(B) “Alternative transportation” does not include transportation that is subcontracted by a school district to a private transportation provider.

(d) “Alternative transportation costs” includes:

- (A) Active transportation costs; and**
- (B) Costs incurred by a school district for public transportation, including costs incurred for staff time required for coordinating public transportation options.**

(e) “Environmental Mitigation Trust Agreement” has the meaning given that term in ORS 468A.795.

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

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

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

(A) The age of the student;

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

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

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

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

(b) The rules adopted under this subsection must allow for the reimbursement of alternative transportation costs that are approved transportation costs in an amount that does not exceed five percent of the school district’s transportation grant under ORS 327.013. Alternative transportation costs are considered approved transportation costs if:

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

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

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

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

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

(i) Reliable service by a school bus; and

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

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

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

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

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

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

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

(c) Shall include costs to school buses powered by diesel engines as allowed in the Environmental Mitigation Trust Agreement, except that the board may not include costs paid from the Environmental Mitigation Trust Agreement in the calculation of the transportation grant computed as provided in ORS 327.013.

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

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

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

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

SECTION 2. ORS 327.043 is amended to read:

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

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

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

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

(A) For some or all of the elementary school students who reside more than one mile from school only if the school district that seeks the waiver provides suitable and sufficient alternative transportation to the elementary school students for whom the school district seeks the waiver. A school district that seeks a waiver under this subparagraph must present to the board a plan for providing suitable and sufficient alternative transportation to the elementary school students. Public transportation is not considered suitable and sufficient for elementary school students.

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

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

(a) A comparison of:

(A) The school district’s projected approved transportation costs to serve students without alternative transportation; and

(B) The school district’s projected approved transportation costs if alternative transportation is approved.

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

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

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

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

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

(5) The State Board of Education may approve a supplemental plan or a waiver request to use alternative transportation and to provide reimbursement for costs incurred in providing alternative transportation only when:

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

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

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

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

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

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

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

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

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

Passed by House June 8, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 24, 2023

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Rob Wagner, President of Senate

Received by Governor:

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Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State