John Rau *Legislative Service Commission*

H.B. 222

125th General Assembly
(As Introduced)

Reps. Mason, Barrett, Allen, Key, Distel, DeBose, McGregor, Sykes, Brown, Price, Willamowski, Hartnett, S. Smith, S. Patton

BILL SUMMARY

- Permits a student who relocates or whose parent relocates to another school district, but within the same county, after the first full week in October to continue attending, free of tuition for the rest of the school year, the district school where the student was enrolled and legally entitled to attend prior to the relocation.

CONTENT AND OPERATION

Background

Generally, any nonhandicapped child who is between 5 and 21 years old and a handicapped child who is between 3 and 21 years old may attend school free of charge in the school district in which the child's parent lives or in which the child lives if placed with an Ohio resident for adoption.[1] Also, the child may attend school in the school district in which the *child* resides if:

(1) The child is in the legal custody of a government agency or some person other than the child's parent;

(2) The child resides in an institution, group home, foster home, or other licensed residential child care facility;

(3) The child requires special education services that are provided by that district; or

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[1] *R.C. 3313.48 (not in the bill) and 3313.64(B)(1) and (3). Also, a board of education may enroll a child free of tuition for up to 60 days on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child (R.C. 3313.64(E)).*

(4) The child's parent is institutionalized.

In these cases, however, some other school district or other entity usually must pay tuition to the accepting school district on behalf of the child.[2]

In other cases, the law permits certain individuals who are not otherwise entitled to attend school in a particular school district to do so without anyone owing tuition. For example, any child under 18 years old who is married is entitled to attend school in the child's district of residence regardless of where the parent resides.[3] And, upon submitting prescribed statements to a school district, a child who resides with a parent who is having a new house built is entitled to attend school for up to 90 days in the district where the new house is being built. Similarly, a child residing with a parent who has a contract to purchase a house and is waiting to close the mortgage loan is entitled to attend school for up to 90 days in the district where the house is being purchased.[4] Also, a child who is in the custody of the child's parent but resides with a grandparent is entitled to attend the schools of the district in which the grandparent resides, provided that the child does not require special education services and provided that, prior to attendance in the district, the two district boards of education enter into a written agreement specifying that good cause exists for the child's attendance in the grandparent's district.[5] In all, there currently are 13 such circumstances in which the law permits a student to attend school in a district other than the one the student is otherwise entitled to attend school without obligating anyone to pay tuition on that student's behalf.

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[2] *R.C. 3313.64(B)(2) and 3313.65. See definition of "home" in R.C. 3313.64(A)(4).*

The law also prescribes formulas for calculating the tuition that is owed to a school district. In the case of a student who is a resident of Ohio, the prescribed formula is designed to contribute the local per pupil tax revenue that was not generated for that student because the person responsible for tuition does not live in the district. In the case of a student who is not a resident of Ohio, the formula is designed to contribute both the local tax revenue and the state's share of funding for that student. (See R.C. 3317.08, 3317.081, and 3317.082, the latter two sections not in the bill.)

[3] *R.C. 3313.64(F)(2).*

[4] *R.C. 3313.64(F)(6) and (7).*

[5] *R.C. 3313.64(F)(11).*

The bill

(R.C. 3313.64(I)--conforming changes in R.C. 3313.65(E), 3317.023(F)(1), and 3317.08(B)(4) fourth paragraph)

The bill allows certain students who relocate, or whose parents relocate, to remain in their original school for the rest of the school year. Under the bill, a child under 22 years old is entitled to continue attending school in a school district, if, at the end of the first full week of October, the child was entitled to attend school in that district as otherwise provided by law and was actually enrolled in the schools of that district, but since that time the child or the child's parent has relocated to a new address outside of the district yet within the same county as the child's or parent's address immediately prior to the relocation.[6] The child may continue to attend the school to which the child was assigned at the end of the first full week of October, for the balance of the school year. To trigger the provisions of the bill, the child's parent must first provide written notification of the relocation outside of the school district to the superintendent of the school district.

The bill also provides that if a person or entity is obligated to pay tuition on behalf of the child at the end of the first full week in October, that person or entity continues to owe such tuition to the district for the lesser of the balance of the school year or the balance of the time the child attends school in the district under the bill's provisions.

At the beginning of the next school year, a child is no longer entitled to attend school in the school district under the provisions of the bill. Presumably, at that time, the child would enroll in the schools of the child's or parent's resident school district, or enroll in some other school such as a nonpublic school or a community (charter) school, or qualify for one of the statutory excuses for nonattendance at school.

A child who attends school in a school district under the provisions of the bill is entitled to transportation in the same manner as current law prescribes for a student under interdistrict open enrollment.[7] That law specifies that, upon request

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[6] *Under the school funding law, not changed by the bill, each school district must report to the Department of Education the average daily number of students receiving services in the district during the first full week of October of each school year for purposes of calculating the district's state funding (R.C. 3317.03, not in the bill).*

[7] *Current law, not changed by the bill requires the board of education of each school district to adopt a policy that does one of the following: (1) prohibits interdistrict open enrollment altogether, (2) permits enrollment of students from adjacent districts only, or (3) permits enrollment of students from all districts (R.C. 3313.98(B), not in the bill).*

of a parent, a school board enrolling a student from another district must provide transportation for that student within the boundaries of the district, as long as the board offers transportation to students of the same grade level and distance from school who actually live in the district. The board, however, is required to pick up and drop off a nonhandicapped interdistrict open enrollment student only at a regular school bus stop designated in accordance with the board's transportation policy. Nevertheless, the board may reimburse the parent of that student for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.[8]

The bill's provisions are similar but not identical to provisions enacted in Am. Sub. H.B. 3 of the 125th General Assembly. (See **COMMENT**.)

COMMENT

Am. Sub. H.B. 3 of the 125th General Assembly (effective August 15, 2003) made a number of changes in the state law regarding the academic accountability of schools in order to conform to the federal No Child Left Behind Act of 2001, and made other changes in the state Education Code. Those other changes include the enactment of provisions that are similar but not identical to the ones proposed in H. B. 222. The provisions of H.B. 3 are the same as those of H.B. 222 except for the following:

(1) H.B. 3 states that a student who moves or whose parent moves out of the district after the annual October ADM count "may attend" school in the district for the balance of the school year, whereas H.B. 222 states that such a student "is entitled to attend school" in the district.

(2) H.B. 3 permits continued attendance in the district only upon satisfaction of the following two conditions:

(a) The parent of the student provides written notice of the move to the superintendent of *both* school districts affected;

(b) The boards of education of *both* school districts have adopted a policy to admit students under the H.B. 95 provisions.

Under the bill, a student is entitled to transportation in the same manner as current law prescribes for interdistrict open enrollment students even if the district does not permit such open enrollment.

[8] *R.C. 3313.981(H), not in the bill.*

(3) Under H.B. 3, a student to which the act applies is entitled to transportation either under an agreement entered into by the two affected school districts or, if the districts have not entered into such an agreement, in the same manner as provided for students under open enrollment.

It appears that the differences between H.B. 222 (As Introduced) and H.B. 3 cannot be harmonized, and the provisions of H.B. 222, if enacted, would prevail over those of H.B. 3.[9]

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-17-03	p. 600

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[9] *R.C. 1.52(A) states: "If statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails."*