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BILL ANALYSIS

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House Bill 5494 (Substitute H-1 as passed by the House)
Sponsor: Representative Phillip Pavlov
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 2-27-06

CONTENT

The bill would amend the Pupil Transportation Act to revise school bus regulations and replace certain regulations with Federal requirements. Specifically, the bill would do the following:

- Eliminate the definition of "pupil transportation vehicle", redefine "school bus", and delete various references to pupil transportation vehicles.
- Prohibit a school from directly operating a motor bus for, and a motor carrier from using a motor bus for, pupil transportation.
- Require a motor bus built to school bus specifications that complied with the applicable Federal motor vehicle safety standards to comply with the Act's requirements.
- Increase the maximum allowable size of a school bus.
- Revise regulations regarding school bus inspections.
- Require a person to obtain a school bus indorsement under the Michigan Vehicle Code in order to operate a school bus.
- Require a commercial driver license (CDL) skills test to be administered to a school bus driver whose license was suspended, revoked, or canceled; who was disqualified from driving a commercial motor vehicle (CMV) or school bus; or who had been convicted of specified traffic violations.
- Repeal a section requiring the Michigan Department of Education

(MDE) to administer an on-road driver skills test to each school bus driver.

- Revise the educational requirements for the person or people in charge of school bus operations at a school.
- Revise specifications for school bus floors, windshields, mirrors, fire extinguishers, first aid kits, and markings.
- Make a violation of the Act a State civil infraction rather than a misdemeanor.
- Repeal a section requiring a school to report to the MDE school bus fires and accidents; and requiring the MDE to provide recommendations for change to each school.

Scope of Act

Currently, the term "school bus" means a motor vehicle, other than a pupil transportation vehicle (described below), with a manufacturer's rated seating capacity of at least 11 passengers, including the driver, used for the transportation of pupils to or from school or school-related events that is owned by a school or is used to transport pupils under a contract or agreement with a school. The term does not include a vehicle operated by a public transit agency or authority or by a motor carrier certified by the Michigan Department of Transportation (MDOT) unless the vehicle is used exclusively to transport pupils or is used to transport pupils along a route designed to serve at least one school in a school district if elementary school pupils

along the route are required to cross the highway or roadway.

The bill would define "school bus" as a motor vehicle with a manufacturer's rated capacity of at least 11 passengers, including the driver, used for the transportation of preprimary, primary, or secondary pupils to or from school or school-related events or a multifunction school activity bus manufactured after September 2, 2003, as defined in 49 CFR 571.3, 571.108, and 571.131. (Under those sections of the Code of Federal Regulations (CFR), "multifunction school activity bus" means a school bus whose purposes do not include transporting students to and from home or school bus stops.) Under the bill, "school bus" would not include a vehicle operated by a public transit agency or authority or by an MDOT-certified motor carrier unless the vehicle were used primarily to transport pupils to or from school or school-related events, or were used to transport pupils along a route where the pupils were required to cross the roadway. The bill would exclude from the definition a vehicle operated by a public transit agency or authority.

The bill would delete the definition of "pupil transportation vehicle", which means any vehicle other than a school bus with a manufacturer's rated seating capacity of at least 11 passengers, including the driver, that is used to transport pupils to or from school or school-related events. The term does not include a vehicle operated by a motor carrier of passengers or a public transit agency, or a vehicle used by a parent or a parent's designee to transport his or her children to or from school or school-related events.

The bill also would delete the definition of "school transportation vehicle", which means any motor vehicle with a manufacturer's rated capacity of up to 10 passengers, including the driver, when operated for the scheduled transportation of pupils to or from school or school-related events. The term does not include a vehicle used by a parent or parent's designee to transport children to or from school or school-related events.

The bill specifies that a vehicle that was not a school bus would not be subject to the Act.

Currently, for the purposes of the Act, a parent, parent's designee, or guardian

transporting his or her child or another child with the written permission of that child's parent or legal guardian on a school-related event, if not compensated by the school, is not considered an agent of the school. The bill instead specifies that a parent or legal guardian transporting his or her child or another child with written permission of the child's parent or legal guardian on a school-related event would not be subject to the Act.

Rules Promulgation

The Act requires the State Board of Education to promulgate rules as necessary to implement the Act, except that the MSP, in cooperation with the Board, must promulgate rules for safety specifications and operational procedures for school buses and pupil transportation vehicles. Under the bill, in cooperation with the State Board, the MSP would be permitted to promulgate rules related to vehicle and equipment standards.

Vehicle other than School Bus

The Act prohibits a vehicle other than a school bus with a manufacturer's rated seating capacity of at least 11 passengers, including the driver, from being used to transport pupils to or from school or school-related events. The bill would delete language stating that this prohibition does not apply to a CMV operated by an MDOT-certificated carrier or a bus operated by a public transit agency or authority excluded from the definition of "school bus". The bill provides that the prohibition would not apply to a motor bus (described below).

School Vehicle Purchase

The bill would delete a provision prohibiting a school from purchasing a vehicle to transport pupils to or from school or school-related events with a seating capacity of at least 11 passengers, including the driver, that does not meet or exceed the passenger protection Federal motor vehicle safety standards applicable to that vehicle. The bill also would delete a provision prohibiting a school from purchasing a vehicle for which there are no applicable passenger protection Federal motor vehicle safety standards.

Motor Bus

Under the Act, a school may contract with a licensed motor carrier of passengers for a motor bus to be used for occasional transportation of pupils to or from school-related events. The bill specifies that a school could not directly operate a motor bus for the use of pupil transportation to and from school or school-related events, and an MDOT-certified motor carrier could not use a motor bus to transport pupils to and from school.

The Act allows the MDE to authorize the use of a motor bus for the regular route transportation of pupils to or from school or home. Under the bill, this provision would apply only before the bill's effective date. The bill specifies that any authorization entered into before it took effect would remain in effect for the time that it was authorized.

Under the bill, a motor bus built to school bus specifications that complied with the applicable Federal motor vehicle safety standards would have to comply with the Act's requirements.

School Bus Inspection

The Act requires the MSP to inspect each school bus and pupil transportation vehicle annually, and more frequently at a school where vehicle defects have been found, to determine if the vehicle meets the requirements of the Act and the rules promulgated under it. Inspection may be accomplished at any time, at any location, and as frequently as the MSP considers necessary to secure passenger safety. A school bus or pupil transportation vehicle may be rejected by the inspecting State Police official for further use if it does not meet the Act's or rules' requirements. If a vehicle is determined to be safe for operation but in unsatisfactory condition, the official may determine that up to 60 days will be allowed to effect a specific repair. The bill would delete the references to a pupil transportation vehicle, and require the MSP to inspect each school bus as it determined necessary where school bus defects had been found.

The bill would require any public or private entity that owned or used a school bus for pupil transportation to identify itself to the

MSP so an inspection could be scheduled. If an entity had had school buses inspected in the previous year, it would be considered to have identified itself. If an entity stopped pupil transportation in one year and restarted it in a later year, it would have to identify itself to the MSP as requiring inspection before restarting pupil transportation. An entity would be considered to have identified itself by notifying a person of the MSP responsible for conducting inspections under the Act.

When the MSP scheduled an inspection, an entity would have to identify to the MSP inspector all of the school buses that it intended to use for pupil transportation in that school year. Any school bus that was not submitted for inspection would have to be rejected and have a red sticker affixed pursuant to Section 41, which the bill would amend.

Under Section 41, an inspecting State official may reject a school bus for use in transporting passengers if it does not meet the requirements of the Act or rules promulgated under it. A vehicle that a State Police official determines to be unsafe for further operation may not be used in the transportation of any passengers. The official must affix to the windshield of the bus a red sticker that reads, "This vehicle may not be driven in the transportation of any passenger. Utilization of this vehicle to transport passengers in is in violation of law. {reverse side} Do not remove without State Police authorization." The sticker must remain until the condition is corrected. The bill would delete the references to the transportation of any passengers. Under the bill, a school bus could be transported to a maintenance facility for repair if the driver gave written proof of destination to a State Police official upon request.

The bill would allow the MSP to prohibit the placement and use of any device or equipment on a school bus that presented a safety hazard to the pupils, driver, or motorists during the loading, unloading, or transportation of pupils.

The bill would require a school, before establishing a contract with a company for school bus services, to require the company to verify in writing that the buses it used had been inspected by the MSP and had passed that inspection. The school would

have to specify in a written contract that the contractor could not use any school buses that had not been inspected or had failed inspection, and that a violation of this provision of the contract would result in revocation of the contract. The contract would have to require the contractor to submit, in writing, the inspection results of its entire fleet of buses to the school within 30 days of the completion of the inspection. A school would have to identify to the MSP all of the contractors the school was using upon request.

Under the Act, a school bus that is considered to be in satisfactory condition after inspection must have a Michigan vehicle inspection passing sticker affixed to its windshield. The bill would require a school bus owner to remove or destroy the pass sticker before selling the bus. The bill specifies that all stickers would be the property of the MSP, and that the display of a pass sticker on a vehicle other than a school bus would be a State civil infraction.

Presently, a modified school bus that uses liquefied petroleum gas may not be used to transport pupils unless the installation of the fuel system has been inspected and approved as safe by the MSP. The bill would delete this provision.

Indorsements & Licensing

The Act prohibits a person from operating a school bus without a valid chauffeur's license, the appropriate vehicle group designation, and a passenger vehicle indorsement. Under the bill, a person also would have to have a school bus indorsement as required under the Michigan Vehicle Code.

Drug & Alcohol Testing

The bill would prohibit a person with a CDL from operating a school bus, and a school, school bus owner, or lessee from allowing a person with a CDL to operate a school bus, unless the operation were in compliance with the drug and alcohol testing regulations under 49 CFR Parts 40 and 382. (Part 40 pertains to procedures for transportation workplace drug and alcohol testing programs, and Part 382 pertains to controlled substances and alcohol use and testing.)

On-Road Driver Skills Test

The bill would repeal Section 52, which requires the MDE to administer an on-road driver skills test as developed by the Department and the School Bus Safety Advisory Committee (described below) and approved by the State Board of Education. The test must be administered to each school bus and pupil transportation vehicle driver who has met the minimum threshold for a required safety evaluation as established by the MDE and the Committee and approved by the State Board.

Additionally, Section 52 requires the MDE to implement a requirement for the testing of each driver within each four-year period that the person is assigned to drive a school bus or pupil transportation vehicle if the on-road testing is recommended by the Committee and approved by the State Board.

A driver who fails to complete the on-road driver skills test successfully may not be allowed to operate a school bus or pupil transportation vehicle. A driver who fails that test may retake it under guidelines developed by the MDE and the Committee and approved by the State Board.

Section 52 also allows a school to require all of its drivers to take the on-road driver skills test.

Commercial Driver License Skills Test

Under the bill, a CDL skills test would have to be administered by a State-authorized CDL examiner to a school bus driver who met any of the following:

- Had his or her driver license or CDL suspended, revoked, or canceled.
- Had been disqualified from operating a CMV.
- Had been convicted of any of the disqualifying offenses in 49 CFR 383.51(b) (described below) while operating a CMV or any offense in a noncommercial motor vehicle that would be a disqualifying offense if committed in a CMV.
- Had more than one conviction of any of the serious traffic violations defined in 49 CFR 383.5 (described below) while operating a CMV within the last three years.

- Had been convicted of any motor vehicle traffic violation that resulted in an accident while operating a CMV.
- Had been disqualified from operating a school bus under Section 49(3) (described below).

(Under 49 CFR 383.51(b), a CDL holder must be disqualified from operating a CMV according to a schedule for violations related to driving under the influence of alcohol or a controlled substance; refusing to take an alcohol test; leaving the scene of an accident; using the vehicle to commit a felony; driving with a revoked, suspended, or canceled CDL, or while disqualified; and causing a fatality through the negligent operation of a CMV.

Under 49 CFR 383.5, "serious traffic violation" means conviction of any of the following offenses when operating a CMV:

- Excessive speeding involving any single offense for any speed of 15 miles per hour or more above the posted speed limit.
- Reckless driving.
- Improper or erratic traffic lane changes.
- Following the vehicle ahead too closely.
- A violation of state or local law relating to motor vehicle traffic control arising in connection with a fatal accident.
- Driving a CMV without obtaining a CDL.
- Driving a CMV without a CDL in the driver's possession.
- Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

Section 49(3) of the Act prohibits a person from operating a school bus, or a school administrator or person or entity under contract with a school to provide transportation services from knowingly permitting a person to operate a school bus, if the person has at least seven penalty points for moving violations on his or her driving record, or if he or she has a restricted license due to a conviction for a violation of Section 625 of the Michigan Vehicle Code, which prohibits driving while intoxicated or under the influence of alcohol or a controlled substance.)

The bill would prohibit a driver who was required to take a CDL skills test from

operating a school bus until he or she passed the test. The test would have to be conducted by an examiner not employed or under contract with the same agency or school of the driver being tested.

Boarding & Discharging Pupils

The Act prescribes procedures that a school bus driver must follow when boarding or discharging pupils. Currently, if the pupils are not required to cross the roadway and where the road is wide enough for the bus to be pulled to the far right of the road allowing traffic to flow and to provide for the pupils' safety, the driver must activate the hazard warning lights before the stop and continue to display them until the receiving or discharging process has been completed, if the lawful speed limit is 45 miles per hour or less. The driver may use this procedure only at stops where the school administrator or person or entity under contract with a school to provide transportation services has approved its use. Under the bill, this would apply if the road were wide enough for the bus to be pulled either to the far right of the road or off the roadway.

Presently, if the hazard warning light operation is not used, the driver must use the appropriate procedure as if pupils *were* required to cross the roadway. Under the bill, the driver would have to use the appropriate procedure as if pupils *were not* required to cross the roadway. The bill similarly would revise this requirement in a situation in which pupils are not required to cross the roadway and where the bus may be pulled off the roadway, or where the road is wide enough for the bus to be pulled off to the far right leaving the normal traffic flow unobstructed and to provide for the safety of pupils.

Under the Act, a school bus driver must activate alternately flashing overhead red lights to indicate that the bus is stopped for the receiving or discharging of pupils. The Act prohibits a driver using these lights from stopping the bus on any highway or roadway to receive or discharge pupils when the bus is not clearly and continuously visible to approaching vehicles for specified distances.

The bill specifies that, for the purposes of these provisions, a school bus would be clearly and continuously visible if approaching traffic were able to see the

entire width of the front and back of a school bus from a horizontal line tangent with the top of the vehicle's front and rear bumpers to a horizontal line tangent with the vehicle's most forward and rearward roofline for the entire 400-foot sign line to the bus with no obstruction of the area for the entire 400-foot sight line to the bus in its stopped position.

Stopping at Railroad Crossing

The Act requires a school bus driver to stop the vehicle between 50 and 15 feet from the nearest rail before crossing a railroad track at grade. A driver does not need to stop at a railroad track grade crossing where a police officer or a traffic-control signal directs traffic to proceed. The bill would refer to a uniformed police officer.

The Act also states that the driver does not need to stop at an abandoned railroad track grade crossing. "Abandoned railroad track" means a track that meets the following criteria:

- The track has been abandoned according to procedures set forth in State law.
- The track has been covered and removed.
- All signs, signals, and other warning devices are removed.

The bill would delete the requirement that the track be abandoned according to procedures established in State law, and require that the track be completely paved over or removed, rather than covered and removed.

School Bus Operations Supervisor Qualifications

Currently, the person or people in charge of school bus operations at a school must, at a minimum, have successfully completed the introductory school bus safety education course established in the Act and must complete at least six hours of continuing education every two years. Under the bill, instead, the person would have to have, at a minimum, successfully completed the beginning school bus driver training program in his or her first year serving as the person in charge of the operation. He or she also would have to complete successfully six hours of supervisory continuing education

every two years after the successful completion of the program.

School Bus Safety Advisory Committee

Under the Act, the Department of Education must establish an advisory committee to advise it on issues and topics concerning school buses and school bus safety. The Act prescribes the membership of the committee, which must include a member of Buses United for Safety. Under the bill, instead, the committee would have to include a member of the Training Agency Association of Michigan.

Penalty for Violation of the Act

Currently, a person who violates the Act is guilty of a misdemeanor, unless the violation is declared to be a felony or a civil infraction. Unless another penalty is provided in the Act or by State laws, a person convicted of a misdemeanor under the Act is subject to a maximum fine of \$500 and/or imprisonment for up to three months.

Under the bill, a person who violated the Act would be responsible for a State civil infraction and would have to be assessed a maximum fine of \$500, unless the violation were declared to be a felony or a civil infraction.

School Bus Size

The bill would increase the maximum outside body width of a type I or type II school bus from 96 to 102 inches. The bill would increase the maximum outside overall length of a type II school bus from 40 to 45 feet.

(Under the Act, "type I school bus" means a school bus with a gross vehicle weight rating of more than 10,000 pounds. "Type II school bus" means a bus with a gross vehicle weight rating of 10,000 pounds or less.)

Bus Floor

Currently, a bus floor, including wheelhousing, must be covered and maintained with 1/8-inch smooth rubber or an equivalent as determined by the MSP. The aisles must be covered and maintained with 3/16-inch ribbed rubber or an MSP-

determined equivalent. The rib aisle must continue to the stepwell, and metal longitudinal strips must be applied to the aisle seams. The bill would delete this language, and instead require the floor, including wheelhousing, aisle, and stepwell, to be covered and maintained with a slip-resistant surface. The Act specifies that a transmission inspection plate is not required to be rubber-covered. The bill specifies, instead, that the plate would not have to have a slip-resistant surface. Additionally, the bill would eliminate a provision that plywood floors are optional.

Emergency Exits

The Act prescribes various regulations for types I and II school bus emergency exits, including that the upper and lower portion of the central rear emergency door must be equipped with approved safety glass.

Additionally, a locking device may not be attached to or made a part of the emergency door unless it meets the following criteria:

- It is integrated into the ignition system.
- It is tamper resistant.
- It has an audible alarm system.
- It has an audible alarm near the driver's seat that will sound when the door is locked and the ignition is on.
- It is approved by the MSP.

The bill would eliminate the requirement that the locking device be approved by the MSP, as well as a provision allowing body gauge metal to be substituted for safety glass in the lower portion of the rear emergency door of a type II bus.

Securing of Items

The bill would require all baggage, articles, equipment, or medical supplies not held by individual passengers to be secured in a manner that assured unrestricted access to all exits by all occupants, did not restrict the driver's ability to operate the bus, and protected all occupants against injury resulting from falling or displacement of any baggage, article, or equipment.

The bill specifies that oxygen cylinders secured to a wheelchair would be considered to be in compliance with this provision, as

long as they would not impede access to any exit.

Radio Speakers

The bill would prohibit radio speakers from being any closer to the driver than three seat positions behind him or her. This provision would not apply to radio speakers for two-way communication devices.

School Bus Windshield

Currently, a school bus must be equipped with two windshield wipers and two windshield washers. A washer reservoir must be at least 70 ounces. A windshield must be slanted to prevent glare and large enough to permit the driver to see the road clearly. All glass must be safety glass and must comply with the requirements of the Act, where applicable.

The bill would delete this language, and instead require that a school bus be equipped with windshield wipers, washers, a washer reservoir, and a windshield that met the requirements of 49 CFR 571.103 and 571.104. (Those regulations pertain to windshield defrosting and defogging systems, and windshield wiping and washing systems, respectively.)

Continuously Visible Rectangular Area & Mirrors

Under the Act, a school bus must be equipped so that the driver, in a normal seated position, either by direct vision or by use of an indirect vision mirror system, is able to observe objects on the roadway in front of and beside the vehicle located inside a continuously visible rectangular area consisting of the length of the vehicle plus at least 18 feet in front of it and the width of the vehicle plus at least two feet on either side. The bill would delete the measurements of the continuously visible rectangular area, as well as a requirement that a mirror used to comply with this provision be at least 7-½ inches in diameter and convex in shape, and instead require the bus to comply with the visibility and equipment requirements of 49 CFR 571.111 (which pertains to rearview mirrors).

The bill also would delete a requirement that an interior mirror have a reflective surface at least six inches high by 30 inches wide for

type I school buses, and be metal-backed and framed. Instead, the mirror would have to provide a clear and reasonably unobstructed view to the rear of the vehicle and comply with 49 CFR 571.111.

Currently, the interior mirror of a type I or II school bus must have rounded corners and padded edges. The bill would delete this requirement for a type II school bus, as well as a requirement that the interior mirror of a type II school bus have a reflective surface of six inches by 15 inches. Additionally, the bill would eliminate a requirement that the interior mirror for a pupil transportation vehicle be as provided by the manufacturer and approved by the MSP.

The bill would delete a provision exempting a pupil transportation vehicle other than a passenger van used as a pupil transportation vehicle from these requirements.

Fire Extinguisher & First Aid Kit

The Act requires a school bus to be equipped with at least one, 2A-10BC dry chemical fire extinguisher, or its equivalent, that is approved by the MSP and has an aluminum, brass, or bronze valve. The bill would delete the requirement for MSP approval.

The Act also requires a school bus to be equipped with a first aid kit that must be firmly mounted with a quick-release bracket in an accessible location in the driver's compartment. The bill would eliminate a provision that antiseptics and burn ointments may not be included, except as required by MDOT.

Flashing, Rotating, or Oscillating Light

Under the Act, a school bus may be equipped with a flashing, oscillating, or rotating light mounted on the roof approximately six feet from the rear of the vehicle that displays a white light to the front, side, and rear of the bus. The driver may actuate the light only for use in inclement weather, when passengers are boarding or being discharged, from one-half hour before sunset until one-half hour after sunrise, or where conditions hinder the visibility of the school bus. The bill would refer to one-half hour after sunset and one-half hour before sunrise. The bill specifies that, if a school bus were equipped with

such a light, the driver would not be required to use it.

Marking, Painting, & Lettering

Under the Act, the wheel rims of a school bus must be gray, black, or natural, as provided by the manufacturer. Under the bill, they also could be white.

Currently, the name of the school district must be painted in black on the back, front, and sides of the bus. Under the bill, the name of the school district or contractor would have to be permanently affixed in black letters at least six inches high on the sides. The name would have to be permanently affixed to the front and back of the bus in black letters. The words "school bus" also would have to be permanently affixed to the front and back of the bus between the overhead flashers in black letters that were at least eight inches high.

Section 35 of the Act requires a school bus to be marked as required by MDE standards for school bus markings and operational procedures available from the Department at no cost. The section makes an exception to these standards by allowing animal pictures, cartoon figures, and similar insignia to be affixed to the bus in a temporary manner near the entrance door, but not closer than the second window, to assist in identifying the bus route.

The bill would repeal Section 35 but would prohibit the outside of a school bus from having any other lettering, symbol, marking, or advertising, subject to the same exception. Additionally, a unique identification number could be permanently affixed on the upper corners of the back, front, or sides. A contractor would have to display a U.S. Department of Transportation number when required and in the manner required by 49 CFR Parts 390 to 399.

The bill would require wording for school bus roof and door emergency exits, for inside and outside the bus, to comply with the motor vehicle safety standards under 49 CFR 571.217 (which prescribes requirements regarding emergency exits and window retention and release).

Under the bill, the roof of a school bus could be white or yellow. No part of a school bus

could be white below the drip rail above the side windows.

The bill specifies that the provisions related to the color, painting, and lettering of a school bus would not apply to an MDOT-certified motor carrier using a motor bus for school-related event transportation, or to multifunction school activity buses.

Applicability of Standards

The bill would repeal Section 37, which provides that standards prescribed in the Act for a school bus apply to buses manufactured after 1977. That section also requires copies of the standards in composite form to be made available from the MDE at no cost.

Incident Reporting

The bill would repeal Section 63, which requires a school to report to the MDE the following incidents:

- Each incident that results in a fire on a school bus or pupil transportation vehicle.
- Each school bus or pupil transportation vehicle accident that results in property damage of at least \$500.
- Each school bus or pupil transportation vehicle accident that results in personal injuries to passengers, pedestrians, or drivers.

Section 63 requires the MDE to compile a summary report of the data it receives under this section and return a copy of the report to each school with any recommendations for change.

MCL 257.1805 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

Since the bill would update the Pupil Transportation Act to reflect existing Federal requirements and current State practices, there is no anticipated fiscal impact on State or local government.

Fiscal Analyst: Kathryn Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.