

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1939
93RD GENERAL ASSEMBLY

Reported from the Committee on Elementary and Secondary Education April 5, 2006 with recommendation that House Committee Substitute for House Bill No. 1939 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

3299L.07C

AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to open enrollment.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 162, RSMo, is amended by adding thereto one new section, to be
2 known as section 162.1030, to read as follows:

**162.1030. 1. For the school year beginning July 1, 2007, and each succeeding school
2 year, a parent or guardian residing in a public school district may enroll the parent's or
3 guardian's child in a public school for kindergarten or grades above kindergarten in
4 another school district in the manner provided in this section.**

**5 2. By January fifteenth of the preceding school year, the parent or guardian shall
6 send notification to the district of residence and the receiving district, on forms prescribed
7 by the department of elementary and secondary education, that the parent or guardian
8 intends to enroll the parent's or guardian's child in a public school in another school
9 district. If capacity is insufficient to enroll all pupils who submit a timely application, the
10 public school district shall have an admissions process that assures all applicants of an
11 equal chance of gaining admission except that preferences for admission of children whose
12 siblings attend the school may be permitted. Whenever there is a federal court-ordered
13 desegregation directive for a school district, enrollment options under this section are
14 subject to the approval of the court of continuing jurisdiction, and the court order shall
15 govern. If a parent or guardian fails to file the notification forms by the deadline of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 January fifteenth of the previous school year and one of the criteria defined in subsection
17 3 of this section exists for the failure to meet the deadline, or if the request is to enroll a
18 child in a public school in another district in kindergarten or first grade if the child did not
19 attend kindergarten at a public school or in any grade if a child is moving into Missouri
20 or otherwise entering the public school system for the first time, the parent or guardian
21 shall be permitted to enroll the child in the other district in the same manner as if the
22 deadline had been met. The board of education of the receiving district shall enroll the
23 pupil in a school in the receiving district for the following school year unless the receiving
24 district by admitting the pupil would violate its class size standards under subsection 10
25 of this section. If the request is granted, the board shall transmit a copy of the form to the
26 parent or guardian and the school district of residence within five days after board action,
27 but not later than March first of the preceding school year. The parent or guardian may
28 withdraw the request at any time prior to the start of the school year.

29 3. (1) After January fifteenth of the preceding school year and until the third
30 Friday in July of that calendar year, the parent or guardian shall send notification to the
31 district of residence and the receiving district, on forms prescribed by the department of
32 elementary and secondary education, that good cause, as defined in subdivision (2) of this
33 subsection, exists for failure to meet the January fifteenth deadline. The board of the
34 receiving district shall take action to approve the request if good cause exists. A denial of
35 a request by the board of a receiving district is not subject to appeal.

36 (2) For purposes of this section, "good cause" means a change in a child's residence
37 due to a change in family residence, a change in a child's parents' marital status, a
38 guardianship or custody proceeding, placement in foster care, adoption, participation in
39 a substance abuse or mental health treatment program, or student health or safety
40 concerns; or a change in the status of a child's resident district, such as removal of
41 accreditation by the state board, permanent closure of a nonpublic school, or revocation
42 of a charter school's charter as provided in section 160.405, RSMo. If the good cause
43 relates to a change in status of a child's school district of residence, however, action by a
44 parent or guardian must be taken to file the notification within forty-five days of the last
45 official action relating to such status.

46 (3) If a parent believes that a receiving district is unreasonable in approving or
47 disapproving applications submitted in accordance with this subsection, the parent may
48 request that the department of elementary and secondary education review and take
49 appropriate action.

50 4. Open enrollment applications filed after January fifteenth of the preceding
51 school year that do not qualify for good cause as provided in subsection 3 of this section

52 shall be subject to the approval of the board of the resident district and the board of the
53 receiving district. The parent or guardian shall send notification to the district of residence
54 and the receiving district that the parent or guardian seeks to enroll the parent's or
55 guardian's child in the receiving district. A decision of either board to deny an application
56 filed under this subsection involving repeated acts of harassment of the student or serious
57 health condition of the student that the resident district cannot adequately address is
58 subject to appeal to the state board, which shall exercise broad discretion to achieve just
59 and equitable results that are in the best interest of the affected child or children.

60 5. A request under this section is for a period of not less than one year. If the
61 request is for more than one year and the parent or guardian desires to have the pupil
62 enroll in a different school or school district, the parent or guardian may petition the
63 current receiving district by January fifteenth of the previous school year for permission
64 to enroll the pupil in a different school or school district for a period of not less than one
65 year. Upon receipt of such a request, the current receiving district board may act on the
66 request to transfer to the other school district at the next regularly scheduled board
67 meeting after the receipt of the request. The new receiving district shall enroll the pupil
68 in a school in the district unless there is insufficient classroom space in the requested school
69 or district. A pupil who has been in attendance in another district under this section may
70 return to the district of residence and enroll at the semester break, once the parent or
71 guardian has notified the district of residence and the receiving district in writing of the
72 decision to enroll the pupil in the district of residence.

73 6. A pupil participating in open enrollment shall be counted, for state school
74 foundation aid purposes, in the pupil's district of residence. A pupil's residence, for
75 purposes of this section, means residency established under section 167.020, RSMo. Except
76 for students residing in a K-8 district attending high school in a district pursuant to section
77 167.131, the board of the district of residence shall pay to the receiving district an annual
78 amount equal to the product of the weighted average daily attendance of the district's
79 resident pupils attending the receiving district school and the state adequacy target,
80 multiplied by the dollar value modifier for the sending district, plus local tax revenues per
81 weighted average daily attendance from the incidental and teachers' funds in excess of the
82 performance levy as defined in section 163.011, RSMo, plus all other state aid attributable
83 to such pupils, not exceeding the per pupil cost in the sending district or receiving district,
84 whichever is less. The district of residence shall also pay to the receiving district any other
85 federal or state aid that the district receives on account of such child.

86 7. If a request filed under this section is for a child requiring special education
87 under section 162.670 to 162.999, the request to transfer to the other district shall only be

88 granted if the receiving district maintains a special education instructional program which
89 is appropriate to meet the child's educational needs and the enrollment of the child in the
90 receiving district's program would not cause the size of the class in that special education
91 instructional program in the receiving district to exceed the maximum class size established
92 in rules adopted by the state board of education or federal guidelines for that program.
93 For children requiring special education, a member of the child's individualized education
94 program (IEP) team in the sending district shall be part of the IEP team in the receiving
95 district for the initial IEP planning sessions, and the board of directors of the district of
96 residence shall pay to the receiving district the actual costs incurred in providing the
97 appropriate special education.

98 8. (1) If a parent or guardian of a child who is participating in open enrollment
99 under this section moves to a different school district during the course of either district's
100 academic year, the child's first district of residence shall be responsible for payment of the
101 amount per pupil as calculated pursuant to subsection 6 of this section or special education
102 costs to the receiving school district for the balance of the school year in which the move
103 took place. The new district of residence shall be responsible for the payments during
104 succeeding years.

105 (2) If a request to transfer is due to a change in family residence, or where the child
106 resides as a result of a change in a child's parents' marital status, a guardianship
107 proceeding, placement in foster care, adoption, or participation in a substance abuse or
108 mental health treatment program, and the child who is the subject of the request is not
109 currently using any provision of open enrollment, the parent or guardian of the child shall
110 have the option to have the child remain in the child's original district of residence under
111 open enrollment with no interruption in the child's educational program. If a parent or
112 guardian exercises this option, the child's new district of residence is not required to pay
113 the amount calculated in subsection 6 of this section until the start of the first full year of
114 enrollment of the child.

115 (3) Payments shall be made to the receiving district at least twice a year.

116 9. Notwithstanding section 167.241, RSMo, relating to transportation of
117 nonresident pupils, the parent or guardian is responsible for transporting the pupil
118 without reimbursement. At the discretion of the receiving district based on availability of
119 bus seats, the pupil may be transported by the parent to and from a point on a regular
120 school bus route of the receiving district.

121 10. Every school district shall adopt a policy which defines the term "class size" for
122 the purposes of open enrollment. The desirable level of teacher-pupil ratio promulgated
123 by the department shall be used in formulating the policy but shall permit a district to use

its current standards if the district's current standards are more stringent than the state desirable level. The policy may allow for a number of spaces to remain open to accommodate potential additional pupils who will reside in the district. The public school district shall make available to the public the number of open seats each year on a timely basis.

11. In a public school district that qualified for a small school grant pursuant to section 163.044, RSMo, for the 2006-07 school year, the addition of up to five percent average daily attendance attributable to open enrollment shall not disqualify the district for the grant, nor shall a decrease of less than five percent from the average daily attendance used to determine qualification for the grant for the 2006-07 school year that is attributable to open enrollment qualify a district for the grant.

12. If a pupil for whom a request to transfer has been filed with a district has been suspended or expelled in the sending district, the pupil shall not be permitted to transfer until the pupil has been reinstated in the sending district. Once the pupil has been reinstated, however, the pupil shall be permitted to transfer in the same manner as if the pupil had not been suspended or expelled by the sending district. However, if the pupil applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer, within the limits of sections 167.161 and 167.164, RSMo. The decision of the receiving district is not subject to appeal.

13. An application for open enrollment may be granted at any time with approval of the resident and receiving district.

14. For accountability purposes, the statewide assessment scores of pupils using open enrollment to attend a district other than their resident district shall be treated in the same manner as the scores of a resident pupil who enters the district.

15. To the extent practical based on available capacity, each public school district with multiple attendance centers serving the same grade level shall provide intradistrict open enrollment. A district's intradistrict transfers shall receive priority over interdistrict transfers. Transportation for students requesting an intradistrict transfer shall be governed by the provisions of subsection 9 of this section.

16. To the extent practical based on available capacity, each public vocational-technical school shall provide open enrollment.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,

160 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
161 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
162 adopted after August 28, 2006, shall be invalid and void.

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