

SECOND REGULAR SESSION

HOUSE BILL NO. 1939

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HUNTER.

Read 1st time March 2, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3299L.02I

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 school district may enroll the parent's or
3 guardian's child in a public school in another school district in the manner provided in this
4 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 a parent or guardian fails to file the notification forms by the deadline of
10 January fifteenth of the previous school year and one of the criteria defined in subsection
11 3 of this section exists for the failure to meet the deadline, or if the request is to enroll a
12 child in a public school in another district in kindergarten or first grade if the child did not
13 attend kindergarten at a public school or in any grade if a child is moving into Missouri,
14 the parent or guardian shall be permitted to enroll the child in the other district in the
15 same manner as if the deadline had been met. The board of education of the receiving
16 district shall enroll the pupil in a school in the receiving district for the following school**

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.

17 year unless the receiving district does not have classroom space for the pupil. If the request
18 is granted, the board shall transmit a copy of the form to the parent or guardian and the
19 school district of residence within five days after board action, but not later than March
20 first of the preceding school year. The parent or guardian may withdraw the request at
21 any time prior to the start of the school year.

22 3. (1) After January fifteenth of the preceding school year and until the third
23 Friday in July of that calendar year, the parent or guardian shall send notification to the
24 district of residence and the receiving district, on forms prescribed by the department of
25 elementary and secondary education, that good cause, as defined in subdivision (2) of this
26 subsection, exists for failure to meet the January fifteenth deadline. The board of the
27 receiving district shall take action to approve the request if good cause exists. A denial of
28 a request by the board of a receiving district is not subject to appeal.

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

38 (3) If a resident district believes that a receiving district is unreasonable in
39 approving applications submitted in accordance with this subsection, the resident district
40 may request that the department of elementary and secondary education review and take
41 appropriate action.

42 4. Open enrollment applications filed after January fifteenth of the preceding
43 school year that do not qualify for good cause as provided in subsection 3 of this section
44 shall be subject to the approval of the board of the resident district and the board of the
45 receiving district. The parent or guardian shall send notification to the district of residence
46 and the receiving district that the parent or guardian seeks to enroll the parent's or
47 guardian's child in the receiving district. A decision of either board to deny an application
48 filed under this subsection involving repeated acts of harassment of the student or serious
49 health condition of the student that the resident district cannot adequately address is
50 subject to appeal to the state board, which shall exercise broad discretion to achieve just
51 and equitable results that are in the best interest of the affected child or children.

52 **5. A request under this section is for a period of not less than one year. If the**
53 **request is for more than one year and the parent or guardian desires to have the pupil**
54 **enroll in a different school or school district, the parent or guardian may petition the**
55 **current receiving district by January fifteenth of the previous school year for permission**
56 **to enroll the pupil in a different school or school district for a period of not less than one**
57 **year. Upon receipt of such a request, the current receiving district board may act on the**
58 **request to transfer to the other school district at the next regularly scheduled board**
59 **meeting after the receipt of the request. The new receiving district shall enroll the pupil**
60 **in a school in the district unless there is insufficient classroom space in the requested school**
61 **or district. A denial of a request to change district enrollment within the approved period**
62 **is not subject to appeal. However, a pupil who has been in attendance in another district**
63 **under this section may return to the district of residence and enroll at any time, once the**
64 **parent or guardian has notified the district of residence and the receiving district in writing**
65 **of the decision to enroll the pupil in the district of residence.**

66 **6. A pupil participating in open enrollment shall be counted, for state school**
67 **foundation aid purposes, in the pupil's district of residence. A pupil's residence, for**
68 **purposes of this section, means residency established under section 167.020, RSMo. The**
69 **board of the district of residence shall pay to the receiving district an annual amount equal**
70 **to the product of the weighted average daily attendance of the district's resident pupils**
71 **attending the receiving district school and the state adequacy target, multiplied by the**
72 **dollar value modifier for the district, plus local tax revenues per weighted average daily**
73 **attendance from the incidental and teachers' funds in excess of the performance levy as**
74 **defined in section 163.011, RSMo, plus all other state aid attributable to such pupils, not**
75 **exceeding the per pupil cost in the sending district. The district of residence shall also pay**
76 **to the receiving district any other federal or state aid that the district receives on account**
77 **of such child.**

78 **7. If a request filed under this section is for a child requiring special education**
79 **under section 162.670 to 162.999, the request to transfer to the other district shall only be**
80 **granted if the receiving district maintains a special education instructional program which**
81 **is appropriate to meet the child's educational needs and the enrollment of the child in the**
82 **receiving district's program would not cause the size of the class in that special education**
83 **instructional program in the receiving district to exceed the maximum class size established**
84 **in rules adopted by the state board of education or federal guidelines for that program.**
85 **For children requiring special education, the board of directors of the district of residence**
86 **shall pay to the receiving district the actual costs incurred in providing the appropriate**
87 **special education.**

88 **8. If a parent or guardian of a child who is participating in open enrollment under**
89 **this section moves to a different school district during the course of either district's**
90 **academic year, the child's first district of residence shall be responsible for payment of the**
91 **amount per pupil as calculated pursuant to subsection 6 of this section or special education**
92 **costs to the receiving school district for the balance of the school year in which the move**
93 **took place. The new district of residence shall be responsible for the payments during**
94 **succeeding years. If a request to transfer is due to a change in family residence, a change**
95 **in a child's parents' marital status, a guardianship proceeding, placement in foster care,**
96 **adoption, or participation in a substance abuse or mental health treatment program, and**
97 **the child who is the subject of the request is not currently using any provision of open**
98 **enrollment, the parent or guardian of the child shall have the option to have the child**
99 **remain in the child's original district of residence under open enrollment with no**
100 **interruption in the child's educational program. If a parent or guardian exercises this**
101 **option, the child's new district of residence is not required to pay the amount calculated**
102 **in subsection 6 of this section until the start of the first full year of enrollment of the child.**
103 **Quarterly payments shall be made to the receiving district.**

104 **9. Notwithstanding section 167.241, RSMo, relating to transportation of**
105 **nonresident pupils, the parent or guardian is responsible for transporting the pupil**
106 **without reimbursement to and from a point on a regular school bus route of the receiving**
107 **district. However, a receiving district may send school vehicles into the district of residence**
108 **of the pupil using the open enrollment option under this section, for the purpose of**
109 **transporting the pupil to and from school in the receiving district, if the boards of both the**
110 **sending and receiving districts agree to such an arrangement. A sending district which**
111 **provides transportation for a pupil to a receiving district under this subsection may**
112 **withhold from the district cost per pupil amount that is to be paid to the receiving district,**
113 **an amount which represents the average or pro rata cost per pupil for transportation,**
114 **whichever is less.**

115 **10. Every school district shall adopt a policy which defines the term "insufficient**
116 **classroom space" for that district.**

117 **11. A pupil who participates in open enrollment for purposes of attending a grade**
118 **in grades nine through twelve in a school district other than the district of residence is**
119 **ineligible to participate in interscholastic athletic contests and athletic competitions during**
120 **the pupil's first ninety school days of enrollment in the receiving district, except that the**
121 **pupil may participate immediately in an interscholastic sport if:**

122 **(1) The sport in which the pupil wishes to participate is not offered in the district**
123 **of residence;**

(2) The pupil chooses to use open enrollment to attend school in another school district because the district in which the student previously attended school was dissolved and merged with one or more contiguous school districts;

(3) The pupil participates in open enrollment because the pupil's district of residence has entered into a grade sharing agreement with another district for the pupil's grade; or

(4) The parent or guardian of the pupil participating in open enrollment is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services.

A pupil who has paid tuition and attended school, or has attended school pursuant to a mutual agreement between the two districts, in a district other than the pupil's district of residence for at least one school year prior to July 1, 2007, is also eligible to participate immediately in interscholastic athletic contests and athletic competitions under this section as a member of a team from the district that pupil had attended. For purposes of this subsection, "school days of enrollment" do not include enrollment in summer school. No school district or public school shall belong to any voluntary association that maintains bylaws that are in violation of this section.

12. If a pupil for whom a request to transfer has been filed with a district has been suspended or expelled in the 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. If a pupil for whom a request to transfer has been filed with a district is expelled in the district, the pupil shall be permitted to transfer to a receiving district under this section if the pupil applies for and is reinstated in 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. 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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