

FIRST REGULAR SESSION

HOUSE BILL NO. 807

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (86) (Sponsor), SCHAAF, SCHARNHORST, STEVENSON, HOBBS, EMERY, DOUGHERTY, JONES (117), PARSON, EL-AMIN, FAITH, HUBBARD, ROBB, LEMBKE, THRELKELD, VILLA, NIEVES, DEMPSEY, DAVIS, HUGHES, HOSKINS, ONDER, JONES (89), FUNDERBURK, HUNTER, ICET, KRATKY AND COOPER (120) (Co-sponsors).

Read 1st time February 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1866L.02I

AN ACT

To repeal section 171.171, RSMo, and to enact in lieu thereof two new sections relating to school enrollment.

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

Section A. Section 171.171, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 162.1030 and 171.171, to read as follows:

- 162.1030. 1. For the school year beginning July 1, 2008, and each succeeding school year, a parent or guardian residing in a public school district whose child is attending the school to which the district has assigned the child or who is preparing to register the child for kindergarten or first grade or who has moved to the district recently and has not enrolled the child in a private school or home school may enroll the parent's or guardian's child in a public school for kindergarten or grades above kindergarten in another school district in the manner provided in this section. For purposes of this section "public school" includes charter schools, magnet schools, and the Missouri virtual school created in section 161.670, RSMo.**
- 2. (1) By January fifteenth of the preceding school year, the parent or guardian shall send initial notification to the district of residence and the receiving district, on forms prescribed by the department of elementary and secondary education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another**

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.

14 school district. If capacity is insufficient to enroll all pupils who submit a timely
15 application, the public school district shall have an admissions process that assures all
16 applicants of an equal chance of gaining admission except that preferences for admission
17 of children whose siblings attend the school may be permitted. Whenever there is a federal
18 court-ordered desegregation directive for a school district, enrollment options under this
19 section are subject to the approval of the court of continuing jurisdiction, and the court
20 order shall govern.

21 (2) If a parent or guardian fails to file the initial notification forms by the deadline
22 specified in subdivision (1) of this subsection and one of the criteria defined in subsection
23 3 of this section exists for the failure to meet the deadline, if the request is to enroll a child
24 in a public school in another district for kindergarten or first grade or in any grade if a
25 child is moving into Missouri or moving into the public school district for the first time, the
26 parent or guardian shall be permitted to enroll the child in the other district in the same
27 manner as if the deadline had been met.

28 (3) The board of education of the receiving district shall enroll the pupil in a school
29 in the receiving district for the following school year unless the receiving district by
30 admitting the pupil would violate its class size standards under subsection 10 of this
31 section. If the request is granted, the board shall transmit a copy of the form to the parent
32 or guardian and the school district of residence within five days after board action, but not
33 later than March first of the preceding school year. The parent or guardian may withdraw
34 the request at any time prior to the start of the school year.

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

42 (2) For purposes of this section, "good cause" means a change in a child's residence
43 due to a change in family residence, a change in a child's parents' marital status, a
44 guardianship or custody proceeding, placement in foster care, adoption, participation in
45 a substance abuse or mental health treatment program, or student health or safety
46 concerns; or a change in the status of a child's resident district, such as removal of
47 accreditation by the state board, permanent closure of a nonpublic school, or revocation
48 of a charter school's charter as provided in section 160.405, RSMo. If the good cause
49 relates to a change in status of a child's school district of residence, however, action by a

50 parent or guardian must be taken to file the notification within forty-five days of the last
51 official action relating to such status.

52 (3) If a parent believes that a receiving district is unreasonable in disapproving
53 applications submitted in accordance with this subsection, the parent may request that the
54 department of elementary and secondary education review and take appropriate action.

55 4. For accountability purposes, the statewide assessment scores of pupils using open
56 enrollment to attend a district other than their resident district shall be treated in the same
57 manner as the scores of a resident pupil who enters the district. School districts shall keep
58 records of numbers of transfers requested into and out of the district, numbers accepted
59 and denied, and the percentage of first-time enrollees who were continuously enrolled in
60 a private school during the previous school year. For denials, the district shall state the
61 grounds for denial. These records shall be publicly available, shall be included in the
62 annual report card under section 160.522, RSMo, and if the district has a web site, the
63 district shall post the records for the three most recent years.

64 5. (1) A request under this section is for a period of not less than one year and, once
65 granted, shall not require another application until the student has completed all grades
66 available at the chosen school or district. If the parent or guardian desires to have the
67 pupil enroll in a different school or school district, the parent or guardian shall follow the
68 procedure set out in subdivision (3) of subsection 2 of this section.

69 (2) The new receiving district shall enroll the pupil in a school in the district unless
70 there is insufficient classroom space in the requested school or district.

71 (3) A pupil who has been in attendance in another district under this section may
72 return to the district of residence and enroll at the semester break, once the parent or
73 guardian has notified the district of residence and the receiving district in writing of the
74 decision to enroll the pupil in the district of residence.

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

86 receiving district, whichever is less. The district of residence shall also pay to the receiving
87 district any other federal or state aid that the district receives on account of such child.

88 7. If a request filed under this section is for a child requiring special education
89 under sections 162.670 to 162.999, the request to transfer to the other district shall only be
90 granted if the individualized education plan (IEP) team in the receiving district verifies
91 that the receiving district maintains a special education instructional program which is
92 appropriate to meet the child's educational needs and the enrollment of the child in the
93 receiving district's program would not cause the size of the class in that special education
94 instructional program in the receiving district to exceed the maximum class size established
95 in rules adopted by the state board of education or federal guidelines for that program.
96 For children requiring special education, a member of the child's IEP team in the sending
97 district shall be part of the IEP team in the receiving district for the initial IEP planning
98 sessions, and the board of directors of the district of residence shall pay to the receiving
99 district the actual costs incurred in providing the appropriate special education.

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

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

117 (3) Payments shall be made to the receiving district at least twice a year. If timely
118 payment is not made, the receiving district shall be entitled to a late charge of up to three
119 percent a month on the amount overdue, not to exceed three months. When a payment is
120 more than three months past due, the department of elementary and secondary education,

upon notice from the receiving district, shall withhold the amount, including interest, from the sending district's state school aid and send payment in full to the receiving district.

9. Notwithstanding section 167.241, RSMo, relating to transportation of nonresident pupils, the parent or guardian is responsible for transporting the pupil without reimbursement. At the discretion of the receiving district based on availability of bus seats, the pupil may be transported by the parent to and from a point on a regular school bus route of the receiving district. Nothing in this subsection shall be construed to prohibit a sending or receiving district from voluntarily providing such transportation, nor shall this subsection be construed to prohibit a district to be compensated for use of school buses for any purpose the school district deems necessary and appropriate to accomplish the ends of this section.

10. Every school district shall adopt a policy which defines the term "class size" for the purposes of open enrollment. The levels of teacher-pupil ratio promulgated by the department shall be considered in formulating the policy. 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 in each grade each year on a timely basis.

11. In a public school district that qualified for a small school grant under 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 to the receiving district 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. 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

157 transfers. Transportation for students requesting an intradistrict transfer shall be
158 governed by the provisions of subsection 9 of this section.

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

161 16. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
162 that is created under the authority delegated in this section shall become effective only if
163 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
164 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
165 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
166 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
167 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
168 adopted after August 28, 2007, shall be invalid and void.

171.171. 1. Work completed in schools accredited by the state board of education shall
2 be given full credit in requirements for entrance to and classification in any **public higher or**
3 **post-secondary** educational institution supported in whole or in part by state appropriation.

4 2. When a student transfers into a public school from any educational setting,
5 including but not limited to an unaccredited public or any private school, or from a home
6 school, the district shall provide the student and parent or guardian with a written
7 explanation of the enrollment, credit issuance, grade level placement, and appeal process
8 along with the board policy on these topics if the parent disagrees with the school's
9 evaluation of the student's credits or placement. The district shall review the student's
10 course work, achievement test scores, transcript, and any other performance data from his
11 or her previous school, including any records kept under section 167.031, RSMo, to
12 determine grade level placement and the issuing of course credits towards a diploma. If
13 the district is unable to determine the credits earned or grade level placement based on the
14 documentation provided, the district may administer some other proficiency assessment
15 as set by school board policy. If the assessment selected by the district is not a recognized
16 national or state assessment, course curricular objectives and competencies shall be
17 provided to the student and parent or guardian at the time of scheduling the test. Course
18 credit shall be awarded based on a passing grade determined by what is considered passing
19 to regularly enrolled students in the district. The district shall provide a determination of
20 the course credits and grade level placement to the student and his or her parent or
21 guardian within thirty calendar days of the request for enrollment and provision of course
22 documentation by the student and parent or guardian or within thirty calendar days of the
23 student's completion of the proficiency assessment.

24 **3. Board of education policies for determining the issuance of credits and grade**
25 **level placement of transfer students shall be reasonable and nondiscriminatory. Elective**
26 **credit shall be awarded for course work not recognized as fulfilling the district curricular**
27 **objectives but which meet the documentation requirements of this section or section**
28 **167.031, RSMo, as applicable. The district shall work with the student and the student's**
29 **parents or guardian to determine the best grade level placement based on the credits**
30 **earned and the student's age, and devise a program of studies that, if completed, will earn**
31 **a high school diploma.**

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