

FIRST REGULAR SESSION

HOUSE BILL NO. 960

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHOELLER (Sponsor), RUESTMAN, EMERY, DOUGHERTY, TILLEY, BIVINS, SCHARNHORST, KOENIG, DIECKHAUS, PARKINSON, JONES (89), STEVENSON, DAVIS, BURLISON, ZERR, LEARA, FUNDERBURK, EMERY AND GATSCHENBERGER (Co-sponsors).

0595L.01I

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Section 171.171, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 162.1030 and 171.171, to read as follows: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, 2010, 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 school district. If capacity is insufficient to enroll all pupils who submit a timely application, the public school district shall have an admissions process that assures all

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 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.

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

4. 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. School districts shall keep records of numbers of transfers requested into and out of the district, numbers accepted and denied, and the percentage of first-time enrollees who were continuously enrolled in a private school during the previous school year. For denials, the district shall state the grounds for denial. These records shall be publicly available, shall be included in the annual report card under section 160.522, RSMo, and if the district has a web site, the district shall post the records for the three most recent years.

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

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

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

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

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

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

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

(3) Payments shall be made to the receiving district at least twice a year. If timely payment is not made, the receiving district shall be entitled to a late charge of up to three percent a month on the amount overdue, not to exceed three months. When a payment is 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.

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

132 **10. Every school district shall adopt a policy which defines the term "class size" for**
133 **the purposes of open enrollment. The levels of teacher-pupil ratio promulgated by the**
134 **department shall be considered in formulating the policy. The policy may allow for a**
135 **number of spaces to remain open to accommodate potential additional pupils who will**
136 **reside in the district. The public school district shall make available to the public the**
137 **number of open seats in each grade each year on a timely basis.**

138 **11. In a public school district that qualified for a small school grant under section**
139 **163.044, RSMo, for the 2008-2009 school year, the addition of up to five percent average**
140 **daily attendance attributable to open enrollment shall not disqualify the district for the**
141 **grant, nor shall a decrease of less than five percent from the average daily attendance used**
142 **to determine qualification for the grant for the 2008-2009 school year that is attributable**
143 **to open enrollment qualify a district for the grant.**

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

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

154 **14. To the extent practical based on available capacity, each public school district**
155 **with multiple attendance centers serving the same grade level shall provide intradistrict**
156 **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, 2009, 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.

✓