

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1789**  
96TH GENERAL ASSEMBLY

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Reported from the Committee on General Laws, May 10, 2012, with recommendation that the Senate Committee Substitute do pass.

5932S.08C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 162.431 and 167.121, RSMo, and to enact in lieu thereof two new section relating to travel hardships of public school pupils.

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

Section A. Sections 162.431 and 167.121, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 162.431 and 167.121, to  
3 read as follows:

162.431. 1. When it is necessary to change the boundary lines between  
2 seven-director school districts, in each district affected, ten percent of the voters  
3 by number of those voting for school board members in the last annual school  
4 election in each district may petition the district boards of education in the  
5 districts affected, regardless of county lines, for a change in boundaries. The  
6 question shall be submitted at the next election, as the term election is referenced  
7 and defined in section 115.123.

8 2. The voters shall decide the question by a majority vote of those who  
9 vote upon the question. If assent to the change is given by each of the various  
10 districts voting, each voting separately, the boundaries are changed from that  
11 date.

12 3. If one of the districts votes against the change and the other votes for  
13 the change, the matter may be appealed to the state board of education, in  
14 writing, within fifteen days of the submission of the question by either one of the  
15 districts affected, or in the above event by a majority of the signers of the petition  
16 requesting a vote on the proposal. At the first meeting of the state board

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 following the appeal, a board of arbitration composed of three members, none of  
18 whom shall be a resident of any district affected **or a current or retired**  
19 **school administrator**, shall be appointed. In determining whether it is  
20 necessary to change the boundary line between seven-director districts, the board  
21 of arbitration shall base its decision upon the following:

22 (1) The presence of school-aged children in the affected area;  
23 (2) The presence of actual educational harm to school-aged children, either  
24 due to a significant difference in the time involved in transporting students or  
25 educational deficiencies in the district which would have its boundary adversely  
26 affected; and

27 (3) The presence of an educational necessity, not of a commercial benefit  
28 to landowners or to the district benefitting for the proposed boundary adjustment.  
29 For purposes of subdivision (2) of this subsection, "Significant difference in the  
30 time involved in transporting students" shall mean a difference of forty-five  
31 minutes or more per trip in travel time. "Travel time" is the period of time  
32 required to transport a pupil from the pupil's place of residence or other  
33 designated pick-up point to the site of the pupil's educational placement.

34 4. Within twenty days after notification of appointment, the board of  
35 arbitration shall meet and consider the necessity for the proposed changes and  
36 shall decide whether the boundaries shall be changed as requested in the petition  
37 or be left unchanged, which decision shall be final. The decision by the board of  
38 arbitration shall be rendered not more than thirty days after the matter is  
39 referred to the board. The chairman of the board of arbitration shall transmit the  
40 decision to the secretary of each district affected who shall enter the same upon  
41 the records of his district and the boundaries shall thereafter be in accordance  
42 with the decision of the board of arbitration. The members of the board of  
43 arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the  
44 appeal is made by the district taking the appeal or by the petitioners should they  
45 institute the appeal.

46 5. If the board of arbitration decides that the boundaries shall be left  
47 unchanged, no new petition for the same, or substantially the same, boundary  
48 change between the same districts shall be filed until after the expiration of two  
49 years from the date of the municipal election at which the question was submitted  
50 to the voters of the districts.

167.121. 1. If the residence of a pupil is so located that attendance in the  
2 district of residence constitutes an unusual or unreasonable transportation

3 hardship because of natural barriers, travel time, or distance, the commissioner  
4 of education or his or her designee may assign the pupil to another district. **The**  
5 **commissioner or his or her designee shall, upon proper application by**  
6 **the parent or guardian of the pupil, assign the pupil and any sibling of**  
7 **the pupil to another district if the following conditions are met:**

8 (1) **The actual driving distance from the student's residence to**  
9 **the attendance center in the district of residence is seventeen miles or**  
10 **more by the shortest route available as determined by the**  
11 **commissioner or his or her designee;**

12 (2) **The attendance center to which the student would be**  
13 **assigned in the receiving district is at least seven miles closer in actual**  
14 **driving distance by the shortest route available to the student's**  
15 **residence than the current attendance center in the residence district**  
16 **as determined by the commissioner or his or her designee; and**

17 (3) **The attendance of the student will not cause the classroom in**  
18 **the receiving district to exceed the number of students per class as**  
19 **determined by the receiving district.**

20 2. **The commissioner of education shall assign pupils in the order**  
21 **in which applications are received, provided the applications are**  
22 **properly completed and the conditions of subsection 1 of this section**  
23 **are met. Once granted, the hardship assignment shall continue until**  
24 **the pupil, and any sibling of the pupil who attends the same attendance**  
25 **center, completes his or her course of study in the receiving district or**  
26 **the parent or guardian withdraws the pupil. If a parent or guardian**  
27 **withdraws a pupil from a hardship assignment, the granting of a**  
28 **subsequent application is discretionary.**

29 3. **A pupil shall be eligible to apply to the commissioner of**  
30 **education to be assigned to another district under this section if the**  
31 **pupil has been enrolled in and attending a public school in his or her**  
32 **district of residence during the school year prior to the**  
33 **application. Any pupil shall be eligible to apply to the commissioner**  
34 **of education to be assigned to another district under this section if the**  
35 **pupil has been enrolled in and attending a public school in a district**  
36 **other than his or her district of residence and paid nonresident tuition**  
37 **for such enrollment during the school year prior to the**  
38 **application. Pupils who reside in the district who become eligible for**  
39 **kindergarten or first grade shall also be eligible to apply to the**

40 **commissioner of education to be assigned to another district. A pupil**  
41 **who is not currently enrolled in a public school district shall become**  
42 **eligible to apply to the commissioner of education to be assigned to**  
43 **another district after the student has enrolled in and completed a full**  
44 **school year in a public school in his or her district of residence.**

45         **4. Subject to the provisions of this section, all existing assignments shall**  
46 **be reviewed prior to July 1, 1984, and from time to time thereafter, and may be**  
47 **continued or rescinded. Any assignment granted to a pupil under this**  
48 **section prior to August 28, 2012 shall also be applicable to any sibling**  
49 **of the pupil and shall remain in effect until the pupil completes his or**  
50 **her course of study in the receiving district or until the parent or**  
51 **guardian withdraws the pupil from the assignment. The board of**  
52 **education of the district in which the pupil lives shall pay the tuition of the pupil**  
53 **assigned. The tuition shall [not exceed the pro rata cost of instruction] be the**  
54 **lesser of the student's district of residence's current expenditure per**  
55 **average daily attendance for the previous school year and the receiving**  
56 **district's current expenditure per average daily attendance for the**  
57 **previous school year. If there is disagreement as to the tuition amount,**  
58 **the facts shall be submitted to the state board of education and its**  
59 **decision in the matter shall be final. For any pupil that the**  
60 **commissioner assigns to another district who has an individualized**  
61 **education program, the pupil shall be included in the pupil count of the**  
62 **district of residence for purposes of state aid. No district to which a**  
63 **pupil with an individualized education program is assigned shall be**  
64 **included in such district's pupil count for state aid. If there is**  
65 **disagreement as to the tuition amount for any pupil with an**  
66 **individualized education program, the facts shall be submitted to the**  
67 **state board of education and its decision in the matter shall be final.**

68         **[2.] 5. (1) For the school year beginning July 1, 2008, and each**  
69 **succeeding school year, a parent or guardian residing in a lapsed public school**  
70 **district or a district that has scored either unaccredited or provisionally**  
71 **accredited, or a combination thereof, on two consecutive annual performance**  
72 **reports may enroll the parent's or guardian's child in the Missouri virtual school**  
73 **created in section 161.670 provided the pupil first enrolls in the school district of**  
74 **residence. The school district of residence shall include the pupil's enrollment in**  
75 **the virtual school created in section 161.670 in determining the district's average**

76 daily attendance. Full-time enrollment in the virtual school shall constitute one  
77 average daily attendance equivalent in the school district of residence. Average  
78 daily attendance for part-time enrollment in the virtual school shall be calculated  
79 as a percentage of the total number of virtual courses enrolled in divided by the  
80 number of courses required for full-time attendance in the school district of  
81 residence.

82 (2) A pupil's residence, for purposes of this section, means residency  
83 established under section 167.020. Except for students residing in a K-8 district  
84 attending high school in a district under section 167.131, the board of the home  
85 district shall pay to the virtual school the amount required under section 161.670.

86 (3) Nothing in this section shall require any school district or the state to  
87 provide computers, equipment, Internet or other access, supplies, materials or  
88 funding, except as provided in this section, as may be deemed necessary for a  
89 pupil to participate in the virtual school created in section 161.670.

90 (4) Any rule or portion of a rule, as that term is defined in section  
91 536.010, that is created under the authority delegated in this section shall  
92 become effective only if it complies with and is subject to all of the provisions of  
93 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
94 nonseverable and if any of the powers vested with the general assembly pursuant  
95 to chapter 536 to review, to delay the effective date, or to disapprove and annul  
96 a rule are subsequently held unconstitutional, then the grant of rulemaking  
97 authority and any rule proposed or adopted after August 28, 2007, shall be  
98 invalid and void.

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