



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB3055

Introduced 8/12/2008, by Sen. James T. Meeks - Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12a	from Ch. 122, par. 10-20.12a
105 ILCS 5/10-20.12b	
105 ILCS 5/10-22.5	from Ch. 122, par. 10-22.5
105 ILCS 5/10-22.5a	from Ch. 122, par. 10-22.5a
105 ILCS 5/34-18.30	

Amends the School Code. Provides that a school district must allow non-resident pupils of the school district to attend the schools of the district without charging these students tuition as long as these students are residents of this State (now, a school board has the power to charge non-resident pupils tuition). Provides that the school district is not required to provide the necessary transportation for these students. Makes related changes. Effective immediately.

LRB095 22035 NHT 52307 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 10-20.12a, 10-20.12b, 10-22.5, 10-22.5a, and 34-18.30 as
6 follows:

7 (105 ILCS 5/10-20.12a) (from Ch. 122, par. 10-20.12a)

8 Sec. 10-20.12a. Non-resident pupil attendance; tuition for
9 out-of-State pupils ~~Tuition for non-resident pupils.~~ To charge
10 ~~non-resident~~ pupils who are not residents of this State but who
11 attend the schools of the district tuition in an amount not
12 exceeding 110% of the per capita cost of maintaining the
13 schools of the district for the preceding school year. A school
14 district must allow non-resident pupils of the school district
15 to attend the schools of the district without charging these
16 students tuition as long as these students are residents of
17 this State. However, the school district is not required to
18 provide the necessary transportation for these students.
19 Nothing in this Section shall be construed to relieve a school
20 district or the State Board of Education from making tuition
21 payments to another school district under other provisions of
22 this Code.

23 Such per capita cost shall be computed by dividing the

1 total cost of conducting and maintaining the schools of the
2 district by the average daily attendance, including
3 non-resident ~~tuition~~ pupils. Depreciation on the buildings and
4 equipment of the schools of the district, and the amount of
5 annual depreciation on such buildings and equipment shall be
6 dependent upon the useful life of such property.

7 The tuition charged shall in no case exceed 110% of the per
8 capita cost of conducting and maintaining the schools of the
9 district attended, as determined with reference to the most
10 recent audit prepared under Section 3-7 which is available at
11 the commencement of the current school year. Tuition must be
12 apportioned for non-resident ~~Non-resident~~ pupils attending the
13 schools of the district for less than the school term; ~~shall~~
14 ~~have their tuition apportioned,~~ however, a school district may
15 not charge tuition for pupils who become non-resident during a
16 school term ~~shall not be charged tuition~~ for the remainder of
17 the school term in which they became non-resident pupils.

18 Unless otherwise agreed to by the parties involved and
19 where the educational services are not otherwise provided for,
20 educational services for an Illinois student under the age of
21 21 in a residential program designed to correct alcohol or
22 other drug dependencies shall be provided by the district in
23 which the facility is located and financed as follows. The cost
24 of educational services shall be paid by the district in which
25 the student resides in an amount equal to the cost of providing
26 educational services in a treatment facility. Payments shall be

1 made by the district of the student's residence and shall be
2 made to the district wherein the facility is located no less
3 than once per month unless otherwise agreed to by the parties.

4 (Source: P.A. 89-397, eff. 8-20-95; 90-649, eff. 7-24-98.)

5 (105 ILCS 5/10-20.12b)

6 Sec. 10-20.12b. Residency; payment of tuition; hearing;
7 criminal penalty.

8 (a) For purposes of this Section:

9 (1) The residence of a person who has legal custody of
10 a pupil is deemed to be the residence of the pupil.

11 (2) "Legal custody" means one of the following:

12 (i) Custody exercised by a natural or adoptive
13 parent with whom the pupil resides.

14 (ii) Custody granted by order of a court of
15 competent jurisdiction to a person with whom the pupil
16 resides for reasons other than to have access to the
17 educational programs of the district.

18 (iii) Custody exercised under a statutory
19 short-term guardianship, provided that within 60 days
20 of the pupil's enrollment a court order is entered that
21 establishes a permanent guardianship and grants
22 custody to a person with whom the pupil resides for
23 reasons other than to have access to the educational
24 programs of the district.

25 (iv) Custody exercised by an adult caretaker

1 relative who is receiving aid under the Illinois Public
2 Aid Code for the pupil who resides with that adult
3 caretaker relative for purposes other than to have
4 access to the educational programs of the district.

5 (v) Custody exercised by an adult who demonstrates
6 that, in fact, he or she has assumed and exercises
7 legal responsibility for the pupil and provides the
8 pupil with a regular fixed night-time abode for
9 purposes other than to have access to the educational
10 programs of the district.

11 (a-5) (Blank). ~~If a pupil's change of residence is due to~~
12 ~~the military service obligation of a person who has legal~~
13 ~~custody of the pupil, then, upon the written request of the~~
14 ~~person having legal custody of the pupil, the residence of the~~
15 ~~pupil is deemed for all purposes relating to enrollment~~
16 ~~(including tuition, fees, and costs), for the duration of the~~
17 ~~eustodian's military service obligation, to be the same as the~~
18 ~~residence of the pupil immediately before the change of~~
19 ~~residence caused by the military service obligation. A school~~
20 ~~district is not responsible for providing transportation to or~~
21 ~~from school for a pupil whose residence is determined under~~
22 ~~this subsection (a-5). School districts shall facilitate~~
23 ~~re-enrollment when necessary to comply with this subsection~~
24 ~~(a-5).~~

25 (b) Except as otherwise provided under Sections ~~Section~~
26 10-22.5a and 34-18.30, only resident pupils of a school

1 district and non-resident pupils of the district who are
2 residents of this State may attend the schools of the district
3 without payment of the tuition required to be charged under
4 Section 10-20.12a. ~~However, children for whom the Guardianship~~
5 ~~Administrator of the Department of Children and Family Services~~
6 ~~has been appointed temporary custodian or guardian of the~~
7 ~~person of a child shall not be charged tuition as a nonresident~~
8 ~~pupil if the child was placed by the Department of Children and~~
9 ~~Family Services with a foster parent or placed in another type~~
10 ~~of child care facility and the foster parent or child care~~
11 ~~facility is located in a school district other than the child's~~
12 ~~former school district and it is determined by the Department~~
13 ~~of Children and Family Services to be in the child's best~~
14 ~~interest to maintain attendance at his or her former school~~
15 ~~district.~~

16 (c) The provisions of this subsection do not apply in
17 school districts having a population of 500,000 or more. If a
18 school board in a school district with a population of less
19 than 500,000 determines that a pupil who is attending school in
20 the district on a tuition free basis is a nonresident of the
21 State ~~district~~ for whom tuition is required to be charged under
22 Section 10-20.12a, the board shall notify the person who
23 enrolled the pupil of the amount of the tuition charged under
24 Section 10-20.12a that is due to the district for the
25 nonresident pupil's attendance in the district's schools. The
26 notice shall be given by certified mail, return receipt

1 requested. Within 10 days after receipt of the notice, the
2 person who enrolled the pupil may request a hearing to review
3 the determination of the school board. The request shall be
4 sent by certified mail, return receipt requested, to the
5 district superintendent. Within 10 days after receipt of the
6 request, the board shall notify, by certified mail, return
7 receipt requested, the person requesting the hearing of the
8 time and place of the hearing, which shall be held not less
9 than 10 nor more than 20 days after the notice of hearing is
10 given. The board or a hearing officer designated by the board
11 shall conduct the hearing. The board and the person who
12 enrolled the pupil may be represented at the hearing by
13 representatives of their choice. At the hearing, the person who
14 enrolled the pupil shall have the burden of going forward with
15 the evidence concerning the pupil's residency. If the hearing
16 is conducted by a hearing officer, the hearing officer, within
17 5 days after the conclusion of the hearing, shall send a
18 written report of his or her findings by certified mail, return
19 receipt requested, to the school board and to the person who
20 enrolled the pupil. The person who enrolled the pupil may,
21 within 5 days after receiving the findings, file written
22 objections to the findings with the school board by sending the
23 objections by certified mail, return receipt requested,
24 addressed to the district superintendent. Whether the hearing
25 is conducted by the school board or a hearing officer, the
26 school board shall, within 15 days after the conclusion of the

1 hearing, decide whether or not the pupil is a resident of the
2 State ~~district~~ and the amount of any tuition required to be
3 charged under Section 10-20.12a as a result of the pupil's
4 attendance in the schools of the district. The school board
5 shall send a copy of its decision to the person who enrolled
6 the pupil, and the decision of the school board shall be final.

7 (c-5) The provisions of this subsection apply only in
8 school districts having a population of 500,000 or more. If the
9 board of education of a school district with a population of
10 500,000 or more determines that a pupil who is attending school
11 in the district on a tuition free basis is a nonresident of the
12 State ~~district~~ for whom tuition is required to be charged under
13 Section 10-20.12a, the board shall notify the person who
14 enrolled the pupil of the amount of the tuition charged under
15 Section 10-20.12a that is due to the district for the
16 nonresident pupil's attendance in the district's schools. The
17 notice shall be given by certified mail, return receipt
18 requested. Within 10 days after receipt of the notice, the
19 person who enrolled the pupil may request a hearing to review
20 the determination of the school board. The request shall be
21 sent by certified mail, return receipt requested, to the
22 district superintendent. Within 30 days after receipt of the
23 request, the board shall notify, by certified mail, return
24 receipt requested, the person requesting the hearing of the
25 time and place of the hearing, which shall be held not less
26 than 10 nor more than 30 days after the notice of hearing is

1 given. The board or a hearing officer designated by the board
2 shall conduct the hearing. The board and the person who
3 enrolled the pupil may each be represented at the hearing by a
4 representative of their choice. At the hearing, the person who
5 enrolled the pupil shall have the burden of going forward with
6 the evidence concerning the pupil's residency. If the hearing
7 is conducted by a hearing officer, the hearing officer, within
8 20 days after the conclusion of the hearing, shall serve a
9 written report of his or her findings by personal service or by
10 certified mail, return receipt requested, to the school board
11 and to the person who enrolled the pupil. The person who
12 enrolled the pupil may, within 10 days after receiving the
13 findings, file written objections to the findings with the
14 board of education by sending the objections by certified mail,
15 return receipt requested, addressed to the general
16 superintendent of schools. If the hearing is conducted by the
17 board of education, the board shall, within 45 days after the
18 conclusion of the hearing, decide whether or not the pupil is a
19 resident of the State ~~district~~ and the amount of any tuition
20 required to be charged under Section 10-20.12a as a result of
21 the pupil's attendance in the schools of the district. If the
22 hearing is conducted by a hearing officer, the board of
23 education shall, within 45 days after the receipt of the
24 hearing officer's findings, decide whether or not the pupil is
25 a resident of the State ~~district~~ and the amount of any tuition
26 required to be charged under Section 10-20.12a as a result of

1 the pupil's attendance in the schools of the district. The
2 board of education shall send, by certified mail, return
3 receipt requested, a copy of its decision to the person who
4 enrolled the pupil, and the decision of the board shall be
5 final.

6 (d) If a hearing is requested under subsection (c) or (c-5)
7 to review the determination of the school board or board of
8 education that a nonresident pupil is attending the schools of
9 the district without payment of the tuition required to be
10 charged under Section 10-20.12a, the pupil may, at the request
11 of a person who enrolled the pupil, continue attendance at the
12 schools of the district pending a final decision of the board
13 following the hearing. However, attendance of that pupil in the
14 schools of the district as authorized by this subsection (d)
15 shall not relieve any person who enrolled the pupil of the
16 obligation to pay the tuition charged for that attendance under
17 Section 10-20.12a if the final decision of the board is that
18 the pupil is a nonresident of the district. If a pupil is
19 determined to be a nonresident of the district for whom tuition
20 is required to be charged pursuant to this Section, the board
21 shall refuse to permit the pupil to continue attending the
22 schools of the district unless the required tuition is paid for
23 the pupil.

24 (e) Except for a pupil referred to in subsection (b) of
25 Section 10-22.5a, ~~a pupil referred to in Section 10-20.12a, or~~
26 ~~a pupil referred to in subsection (b) of this Section,~~ a person

1 who knowingly enrolls or attempts to enroll in the schools of a
2 school district on a tuition free basis a pupil known by that
3 person to be a nonresident of this State ~~the district~~ shall be
4 guilty of a Class C misdemeanor.

5 (f) A person who knowingly or wilfully presents to any
6 school district any false information regarding the residency
7 of a pupil for the purpose of enabling that pupil to attend any
8 school in that district without the payment of a nonresident
9 tuition charge shall be guilty of a Class C misdemeanor.

10 (g) The provisions of this Section are subject to the
11 provisions of the Education for Homeless Children Act. Nothing
12 in this Section shall be construed to apply to or require the
13 payment of tuition by a parent or guardian of a "homeless
14 child" (as that term is defined in Section 1-5 of the Education
15 for Homeless Children Act) in connection with or as a result of
16 the homeless child's continued education or enrollment in a
17 school that is chosen in accordance with any of the options
18 provided in Section 1-10 of that Act.

19 (Source: P.A. 94-309, eff. 7-25-05.)

20 (105 ILCS 5/10-22.5) (from Ch. 122, par. 10-22.5)

21 Sec. 10-22.5. Assignment of pupils to schools -
22 Non-resident pupils - Tuition - Race discrimination. To assign
23 pupils to the several schools in the district; to admit
24 non-resident pupils ~~when it can be done without prejudice to~~
25 ~~the rights of resident pupils~~ and provide them with any

1 services of the school, including transportation if the
2 district so chooses; to fix the rates of tuition in accordance
3 with Section 10-20.12a, and to collect and pay the same to the
4 treasurer for the use of the district; but no pupil shall be
5 excluded from or segregated in any such school on account of
6 his color, race, sex, or nationality. Nothing herein shall be
7 construed to permit or empower the State Board of Education to
8 order, mandate or require busing or other transportation of
9 pupils for the purpose of achieving racial balance in any
10 school.

11 (Source: P.A. 81-1508.)

12 (105 ILCS 5/10-22.5a) (from Ch. 122, par. 10-22.5a)

13 Sec. 10-22.5a. Attendance by dependents of United States
14 military personnel, foreign exchange students, and certain
15 nonresident pupils.

16 (a) To enter into written agreements with cultural exchange
17 organizations, or with nationally recognized eleemosynary
18 institutions that promote excellence in the arts, mathematics,
19 or science. The written agreements may provide for tuition free
20 attendance at the local district school by foreign exchange
21 students, or by nonresident pupils of eleemosynary
22 institutions. The local board of education, as part of the
23 agreement, may require that the cultural exchange program or
24 the eleemosynary institutions provide services to the district
25 in exchange for the waiver of nonresident tuition.

1 ~~To enter into written agreements with adjacent school~~
2 ~~districts to provide for tuition free attendance by a student~~
3 ~~of the adjacent district when requested for the student's~~
4 ~~health and safety by the student or parent and both districts~~
5 ~~determine that the student's health or safety will be served by~~
6 ~~such attendance. Districts shall not be required to enter into~~
7 ~~such agreements nor be required to alter existing~~
8 ~~transportation services due to the attendance of such~~
9 ~~non resident pupils.~~

10 (a-5) If, at the time of enrollment, a dependent of United
11 States military personnel is housed in temporary housing
12 located outside of a school district, but will be living within
13 the State ~~district~~ within 60 days after the time of initial
14 enrollment, the dependent must be allowed to enroll, subject to
15 the requirements of this subsection (a-5), and must not be
16 charged tuition. Any United States military personnel
17 attempting to enroll a dependent under this subsection (a-5)
18 shall provide proof that the dependent will be living within
19 the State ~~district~~ within 60 days after the time of initial
20 enrollment. Proof of residency may include, but is not limited
21 to, postmarked mail addressed to the military personnel and
22 sent to an address located within the State ~~district~~, a lease
23 agreement for occupancy of a residence located within the State
24 ~~district~~, or proof of ownership of a residence located within
25 the State ~~district~~.

26 (b) Nonresident pupils and foreign exchange students

1 attending school on a tuition free basis under such agreements
2 and nonresident dependents of United States military personnel
3 attending school on a tuition free basis may be counted for the
4 purposes of determining the apportionment of State aid provided
5 under Section 18-8.05 of this Code, provided that any cultural
6 exchange organization or eleemosynary institutions wishing to
7 participate in an agreement authorized under this Section must
8 be approved in writing by the State Board of Education. The
9 State Board of Education may establish reasonable rules to
10 determine the eligibility of cultural exchange organizations
11 or eleemosynary institutions wishing to participate in
12 agreements authorized under this Section. No organization or
13 institution participating in agreements authorized under this
14 Section may exclude any individual for participation in its
15 program on account of the person's race, color, sex, religion
16 or nationality.

17 (Source: P.A. 93-740, eff. 7-15-04.)

18 (105 ILCS 5/34-18.30)

19 Sec. 34-18.30. Dependents of military personnel; no
20 tuition charge. If, at the time of enrollment, a dependent of
21 United States military personnel is housed in temporary housing
22 located outside of the school district, but will be living
23 within the State ~~district~~ within 60 days after the time of
24 initial enrollment, the dependent must be allowed to enroll,
25 subject to the requirements of this Section, and must not be

1 charged tuition. Any United States military personnel
2 attempting to enroll a dependent under this Section shall
3 provide proof that the dependent will be living within the
4 State ~~district~~ within 60 days after the time of initial
5 enrollment. Proof of residency may include, but is not limited
6 to, postmarked mail addressed to the military personnel and
7 sent to an address located within the State ~~district~~, a lease
8 agreement for occupancy of a residence located within the State
9 ~~district~~, or proof of ownership of a residence located within
10 the State ~~district~~. Non-resident dependents of United States
11 military personnel attending school on a tuition-free basis may
12 be counted for the purposes of determining the apportionment of
13 State aid provided under Section 18-8.05 of this Code.

14 (Source: P.A. 95-331, eff. 8-21-07.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.