



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2496

Introduced 10/29/2009, by Sen. James T. Meeks

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.

LRB096 15328 MJR 30478 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.~~

10 (a) To charge ~~non-resident~~ pupils who are not residents of
11 this State but who attend the schools of the district tuition
12 in an amount not exceeding 110% of the per capita cost of
13 maintaining the schools of the district for the preceding
14 school year. A school district must allow non-resident pupils
15 of the school district to attend the schools of the district
16 without charging these students tuition as long as these
17 students are residents of this State. However, the school
18 district is not required to provide the necessary
19 transportation for these students. Nothing in this Section
20 shall be construed to relieve a school district or the State
21 Board of Education from making tuition payments to another
22 school district under other provisions of 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 (b) 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 (and not eligible for services pursuant to Article 14 of
22 this Code) in any residential program shall be provided by the
23 district in which the facility is located and financed as
24 follows. The cost of educational services shall be paid by the
25 district in which the student resides in an amount equal to the
26 cost of providing educational services in the residential

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

5 The funding provision of this subsection (b) applies to all
6 Illinois students under the age of 21 (and not eligible for
7 services pursuant to Article 14 of this Code) receiving
8 educational services in residential facilities, irrespective
9 of whether the student was placed therein pursuant to this Code
10 or the Juvenile Court Act of 1987 or by an Illinois public
11 agency or a court. The changes to this subsection (b) made by
12 this amendatory Act of the 95th General Assembly apply to all
13 placements in effect on July 1, 2007 and all placements
14 thereafter. For purposes of this subsection (b), a student's
15 district of residence shall be determined in accordance with
16 subsection (a) of Section 10-20.12b of this Code. The placement
17 of a student in a residential facility shall not affect the
18 residency of the student. When a dispute arises over the
19 determination of the district of residence under this
20 subsection (b), any person or entity, including without
21 limitation a school district or residential facility, may make
22 a written request for a residency decision to the State
23 Superintendent of Education, who, upon review of materials
24 submitted and any other items or information he or she may
25 request for submission, shall issue his or her decision in
26 writing. The decision of the State Superintendent of Education

1 is final.

2 (Source: P.A. 95-844, eff. 8-15-08; 95-938, eff. 8-29-08.)

3 (105 ILCS 5/10-20.12b)

4 Sec. 10-20.12b. Residency; payment of tuition; hearing;
5 criminal penalty.

6 (a) For purposes of this Section:

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

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

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

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

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

23 (iv) Custody exercised by an adult caretaker
24 relative who is receiving aid under the Illinois Public
25 Aid Code for the pupil who resides with that adult

1 caretaker relative for purposes other than to have
2 access to the educational programs of the district.

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

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

23 (b) Except as otherwise provided under Sections ~~Section~~
24 10-22.5a and 34-18.30, only resident pupils of a school
25 district and non-resident pupils of the district who are
26 residents of this State may attend the schools of the district

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

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

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

1 charged under Section 10-20.12a as a result of the pupil's
2 attendance in the schools of the district. The school board
3 shall send a copy of its decision to the person who enrolled
4 the pupil, and the decision of the school board shall be final.

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

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

1 receipt requested, a copy of its decision to the person who
2 enrolled the pupil, and the decision of the board shall be
3 final.

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

22 (e) Except for a pupil referred to in subsection (b) of
23 Section 10-22.5a, ~~a pupil referred to in Section 10-20.12a, or~~
24 ~~a pupil referred to in subsection (b) of this Section,~~ a person
25 who knowingly enrolls or attempts to enroll in the schools of a
26 school district on a tuition free basis a pupil known by that

1 person to be a nonresident of this State ~~the district~~ shall be
2 guilty of a Class C misdemeanor.

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

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

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

18 (105 ILCS 5/10-22.5) (from Ch. 122, par. 10-22.5)

19 Sec. 10-22.5. Assignment of pupils to schools -
20 Non-resident pupils - Tuition - Race discrimination. To assign
21 pupils to the several schools in the district; to admit
22 non-resident pupils ~~when it can be done without prejudice to~~
23 ~~the rights of resident pupils~~ and provide them with any
24 services of the school, including transportation if the
25 district so chooses; to fix the rates of tuition in accordance

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

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

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

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

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

24 ~~To enter into written agreements with adjacent school~~
25 ~~districts to provide for tuition free attendance by a student~~

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

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

24 (b) Nonresident pupils and foreign exchange students
25 attending school on a tuition free basis under such agreements
26 and nonresident dependents of United States military personnel

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

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

16 (105 ILCS 5/34-18.30)

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

1 provide proof that the dependent will be living within the
2 State ~~district~~ within 60 days after the time of initial
3 enrollment. Proof of residency may include, but is not limited
4 to, postmarked mail addressed to the military personnel and
5 sent to an address located within the State ~~district~~, a lease
6 agreement for occupancy of a residence located within the State
7 ~~district~~, or proof of ownership of a residence located within
8 the State ~~district~~. Non-resident dependents of United States
9 military personnel attending school on a tuition-free basis may
10 be counted for the purposes of determining the apportionment of
11 State aid provided under Section 18-8.05 of this Code.
12 (Source: P.A. 95-331, eff. 8-21-07.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.