

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 174

96TH GENERAL ASSEMBLY

0823L.02T

2011

AN ACT

To repeal sections 172.030, 173.005, and 174.450, RSMo, and to enact in lieu thereof three new sections relating to higher education governing boards, with an existing penalty provision.

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

Section A. Sections 172.030, 173.005, and 174.450, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 172.030, 173.005, and 174.450, to read as follows:

172.030. The board of curators of the University of the state of Missouri shall hereafter consist of nine members, who shall be appointed by the governor, by and with the advice and consent of the senate; provided, that [not more than one person] **at least one but no more than two** shall be appointed upon said board from [the same] **each** congressional district, and no person shall be appointed a curator who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to his appointment. Not more than five curators shall belong to any one political party. **Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.**

173.005. 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

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.

5 2. The commission on higher education is abolished and all its powers, duties, personnel
6 and property are transferred by type I transfer to the "Coordinating Board for Higher Education",
7 which is hereby created, and the coordinating board shall be the head of the department. The
8 coordinating board shall consist of nine members appointed by the governor with the advice and
9 consent of the senate, and not more than five of its members shall be of the same political party.
10 None of the members shall be engaged professionally as an educator or educational administrator
11 with a public or private institution of higher education at the time appointed or during his term.
12 [The other qualifications, terms and compensation of the coordinating board shall be the same
13 as provided by law for the curators of the University of Missouri.] **Moreover, no person shall**
14 **be appointed to the coordinating board who shall not be a citizen of the United States, and**
15 **who shall not have been a resident of the state of Missouri two years next prior to**
16 **appointment, and at least one but not more than two persons shall be appointed to said**
17 **board from each congressional district. The term of service of a member of the**
18 **coordinating board shall be six years and said members, while attending the meetings of**
19 **the board, shall be reimbursed for their actual expenses. Notwithstanding any provision**
20 **of law to the contrary, nothing in this section relating to a change in the composition and**
21 **configuration of congressional districts in this state shall prohibit a member who is serving**
22 **a term on August 28, 2011 from completing his or her term.** The coordinating board may,
23 in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section,
24 employ such professional, clerical and research personnel as may be necessary to assist it in
25 performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time
26 equivalent employees regardless of the source of funding. In addition to all other powers, duties
27 and functions transferred to it, the coordinating board for higher education shall have the
28 following duties and responsibilities:

29 (1) The coordinating board for higher education shall have approval of proposed new
30 degree programs to be offered by the state institutions of higher education;

31 (2) The coordinating board for higher education may promote and encourage the
32 development of cooperative agreements between Missouri public four-year institutions of higher
33 education which do not offer graduate degrees and Missouri public four-year institutions of
34 higher education which do offer graduate degrees for the purpose of offering graduate degree
35 programs on campuses of those public four-year institutions of higher education which do not
36 otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of
37 the parties, including assignment of administrative responsibility. Any diploma awarded for
38 graduate degrees under such a cooperative agreement shall include the names of both institutions
39 inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no
40 further approval from the coordinating board for higher education. Any costs incurred with

41 respect to the administrative provisions of this subdivision may be paid from state funds
42 allocated to the institution assigned the administrative authority for the program. The provisions
43 of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this
44 subsection;

45 (3) In consultation with the heads of the institutions of higher education affected and
46 against a background of carefully collected data on enrollment, physical facilities, manpower
47 needs, institutional missions, the coordinating board for higher education shall establish
48 guidelines for appropriation requests by those institutions of higher education; however, other
49 provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated
50 by the general assembly to the governing board of each public four-year institution of higher
51 education which shall prepare expenditure budgets for the institution;

52 (4) No new state-supported senior colleges or residence centers shall be established
53 except as provided by law and with approval of the coordinating board for higher education;

54 (5) The coordinating board for higher education shall establish admission guidelines
55 consistent with institutional missions;

56 (6) The coordinating board shall establish policies and procedures for institutional
57 decisions relating to the residence status of students;

58 (7) The coordinating board shall establish guidelines to promote and facilitate the
59 transfer of students between institutions of higher education within the state and shall ensure that
60 as of the 2008-09 academic year, in order to receive increases in state appropriations, all
61 approved public two- and four-year public institutions shall work with the commissioner of
62 higher education to establish agreed-upon competencies for all entry-level collegiate courses in
63 English, mathematics, foreign language, sciences, and social sciences associated with an
64 institution's general education core and that the coordinating board shall establish policies and
65 procedures to ensure such courses are accepted in transfer among public institutions and treated
66 as equivalent to similar courses at the receiving institutions. The department of elementary and
67 secondary education shall align such competencies with the assessments found in section
68 160.518 and successor assessments;

69 (8) The coordinating board shall collect the necessary information and develop
70 comparable data for all institutions of higher education in the state. The coordinating board shall
71 use this information to delineate the areas of competence of each of these institutions and for any
72 other purposes deemed appropriate by the coordinating board;

73 (9) Compliance with requests from the coordinating board for institutional information
74 and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall
75 be a prerequisite to the receipt of any funds which the coordinating board is responsible for
76 administering;

77 (10) If any institution of higher education in this state, public or private, willfully fails
78 or refuses to follow any lawful guideline, policy or procedure established or prescribed by the
79 coordinating board, or knowingly deviates from any such guideline, or knowingly acts without
80 coordinating board approval where such approval is required, or willfully fails to comply with
81 any other lawful order of the coordinating board, the coordinating board may, after a public
82 hearing, withhold or direct to be withheld from that institution any funds the disbursement of
83 which is subject to the control of the coordinating board, or may remove the approval of the
84 institution as an approved institution within the meaning of section 173.1102. If any such public
85 institution willfully disregards board policy, the commissioner of higher education may order
86 such institution to remit a fine in an amount not to exceed one percent of the institution's current
87 fiscal year state operating appropriation to the board. The board shall hold such funds until such
88 time that the institution, as determined by the commissioner of higher education, corrects the
89 violation, at which time the board shall refund such amount to the institution. If the
90 commissioner determines that the institution has not redressed the violation within one year, the
91 fine amount shall be deposited into the general revenue fund, unless the institution appeals such
92 decision to the full coordinating board, which shall have the authority to make a binding and
93 final decision, by means of a majority vote, regarding the matter. However, nothing in this
94 section shall prevent any institution of higher education in this state from presenting additional
95 budget requests or from explaining or further clarifying its budget requests to the governor or the
96 general assembly; and

97 (11) (a) As used in this subdivision, the term "out-of-state public institution of higher
98 education" shall mean an education institution located outside of Missouri that:

99 a. Is controlled or administered directly by a public agency or political subdivision or is
100 classified as a public institution by the state;

101 b. Receives appropriations for operating expenses directly or indirectly from a state other
102 than Missouri;

103 c. Provides a postsecondary course of instruction at least six months in length leading
104 to or directly creditable toward a degree or certificate;

105 d. Meets the standards for accreditation by an accrediting body recognized by the United
106 States Department of Education or any successor agency; and

107 e. Permits faculty members to select textbooks without influence or pressure by any
108 religious or sectarian source.

109 (b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

110 a. The board's approval process of proposed new degree programs and course offerings
111 by any out-of-state public institution of higher education seeking to offer degree programs or
112 course work within the state of Missouri; and

113 b. The board's approval process of degree programs and courses offered by any
114 out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by
115 the board to operate a school in compliance with the provisions of sections 173.600 to 173.618.
116 The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer
117 degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri
118 public higher education institutions. Such out-of-state public institutions shall be held to
119 standards no lower than the standards established by the coordinating board for program approval
120 and the policy guidelines of the coordinating board for data collection, cooperation, and
121 resolution of disputes between Missouri institutions of higher education under this section. Any
122 such out-of-state public institutions of higher education wishing to continue operating within this
123 state must be approved by the board under the rules promulgated under this subdivision. Any
124 rule or portion of a rule, as that term is defined in section 536.010, that is created under the
125 authority delegated in this section shall become effective only if it complies with and is subject
126 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
127 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
128 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
129 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
130 or adopted after August 28, 2007, shall be invalid and void.

131 (c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted
132 so that students attending an out-of-state public institution are considered to be attending a
133 Missouri public institution of higher education for purposes of obtaining student financial
134 assistance.

135 3. The coordinating board shall meet at least four times annually with an advisory
136 committee who shall be notified in advance of such meetings. The coordinating board shall have
137 exclusive voting privileges. The advisory committee shall consist of thirty-two members, who
138 shall be the president or other chief administrative officer of the University of Missouri; the
139 chancellor of each campus of the University of Missouri; the president of each state-supported
140 four-year college or university, including Harris-Stowe State University, Missouri Southern State
141 University, Missouri Western State University, and Lincoln University; the president of Linn
142 State Technical College; the president or chancellor of each public community college district;
143 and representatives of each of five accredited private institutions selected biennially, under the
144 supervision of the coordinating board, by the presidents of all of the state's privately supported
145 institutions; but always to include at least one representative from one privately supported
146 community college, one privately supported four-year college, and one privately supported
147 university. The conferences shall enable the committee to advise the coordinating board of the
148 views of the institutions on matters within the purview of the coordinating board.

149 4. The University of Missouri, Lincoln University, and all other state-governed colleges
150 and universities, chapters 172, 174, 175, and others, are transferred by type III transfers to the
151 department of higher education subject to the provisions of subsection 2 of this section.

152 5. The state historical society, chapter 183, is transferred by type III transfer to the
153 University of Missouri.

154 6. The state anatomical board, chapter 194, is transferred by type II transfer to the
155 department of higher education.

156 7. All the powers, duties and functions vested in the division of public schools and state
157 board of education relating to community college state aid and the supervision, formation of
158 districts and all matters otherwise related to the state's relations with community college districts
159 and matters pertaining to community colleges in public school districts, chapters 163, 178, and
160 others, are transferred to the coordinating board for higher education by type I transfer.
161 Provided, however, that all responsibility for administering the federal-state programs of
162 vocational-technical education, except for the 1202a postsecondary educational amendments of
163 1972 program, shall remain with the department of elementary and secondary education. The
164 department of elementary and secondary education and the coordinating board for higher
165 education shall cooperate in developing the various plans for vocational-technical education;
166 however, the ultimate responsibility will remain with the state board of education.

167 8. All the powers, duties, functions, and properties of the state poultry experiment
168 station, chapter 262, are transferred by type I transfer to the University of Missouri, and the state
169 poultry association and state poultry board are abolished. In the event the University of Missouri
170 shall cease to use the real estate of the poultry experiment station for the purposes of research
171 or shall declare the same surplus, all real estate shall revert to the governor of the state of
172 Missouri and shall not be disposed of without legislative approval.

174.450. 1. Except as provided in subsection 2 and subsection 6 of this section, the
2 governing board of Central Missouri State University, Missouri State University, Missouri
3 Southern State University, Missouri Western State University, and of each other public
4 institution of higher education which, through the procedures established in subdivision (7) or
5 (8) of section 173.030, is charged with a statewide mission shall be a board of governors
6 consisting of eight members, composed of seven voting members and one nonvoting member
7 as provided in sections 174.453 and 174.455, who shall be appointed by the governor of
8 Missouri, by and with the advice and consent of the senate. No person shall be appointed a
9 voting member who is not a citizen of the United States and who has not been a resident of the
10 state of Missouri for at least two years immediately prior to such appointment. Not more than
11 four voting members shall belong to any one political party. The appointed members of the
12 board of regents serving on the date of the statutory mission change shall become members of

13 the board of governors on the effective date of the statutory mission change and serve until the
14 expiration of the terms for which they were appointed. The board of regents of any such
15 institution shall be abolished on the effective date of the statutory mission change, as prescribed
16 in subdivision (7) or (8) of section 173.030.

17 2. The governing board of Missouri State University, a public institution of higher
18 education charged with a statewide mission in public affairs, shall be a board of governors of ten
19 members, composed of nine voting members and one nonvoting member, who shall be appointed
20 by the governor, by and with the advice and consent of the senate. The nonvoting member shall
21 be a student selected in the same manner as prescribed in section 174.055. [No more than one
22 voting member] **At least one but no more than two voting members** shall be appointed to the
23 board from [the same] **each** congressional district, and every member of the board shall be a
24 citizen of the United States, and a resident of this state for at least two years prior to his or her
25 appointment. No more than five voting members shall belong to any one political party. The
26 term of office of the governors shall be six years. The voting members of the board of governors
27 serving on August 28, 2005, shall serve until the expiration of the terms for which they were
28 appointed. For those voting members appointed after August 28, 2005, the term of office will
29 be established in a manner where no more than three terms shall expire in a given year. The term
30 of office for those appointed hereafter shall end January first in years ending in an odd number.
31 **Notwithstanding any provision of law to the contrary, nothing in this section relating to a**
32 **change in the composition and configuration of congressional districts in this state shall**
33 **prohibit a member who is serving a term on August 28, 2011 from completing his or her**
34 **term.**

35 3. If a voting member of the board of governors of Missouri State University is found
36 by unanimous vote of the other governors to have moved such governor's residence from the
37 district from which such governor was appointed, then the office of such governor shall be
38 forfeited and considered vacant.

39 4. Should the total number of Missouri congressional districts be altered, all members
40 of the board of governors of Missouri State University shall be allowed to serve the remainder
41 of the term for which they were appointed.

42 5. Should the boundaries of any congressional districts be altered in a manner that
43 displaces a member of the board of governors of Missouri State University from the
44 congressional district from which the member was appointed, the member shall be allowed to
45 serve the remainder of the term for which the member was appointed.

46 6. The governing board of Missouri Southern State University shall be a board of
47 governors consisting of nine members, composed of eight voting members and one nonvoting
48 member as provided in sections 174.453 and 174.455, who shall be appointed by the governor

49 of Missouri, by and with the advice and consent of the senate. No person shall be appointed a
50 voting member who is not a citizen of the United States and who has not been a resident of the
51 state of Missouri for at least two years immediately prior to such appointment. Not more than
52 four voting members shall belong to any one political party.

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