



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4730

by Rep. Sue Scherer

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g  
105 ILCS 5/27-6

from Ch. 122, par. 2-3.25g  
from Ch. 122, par. 27-6

Amends the School Code. Provides that an approved waiver from or modification to a physical education mandate may remain in effect for a period not to exceed 2 school years (rather than 5 school years like other mandate waivers) and may be renewed no more than 2 times upon application by an eligible applicant. Provides that an approved waiver from or modification to a physical education mandate may be changed within the 2-year period by the school board or regional superintendent of schools, whichever is applicable, following the procedure set forth in the Code for the initial waiver or modification request. Provides that a school board may determine the schedule or frequency of physical education courses, provided that an elementary school pupil engage in a course of physical education for a minimum of 150 minutes per week and a high school pupil engage in a course of physical education for a minimum of 225 minutes per week (rather than engaging in a course of physical education for a minimum of 3 days per 5-day week). Effective July 1, 2018.

LRB100 17810 AXK 32989 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 2-3.25g and 27-6 as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

7 Sec. 2-3.25g. Waiver or modification of mandates within the  
8 School Code and administrative rules and regulations.

9 (a) In this Section:

10 "Board" means a school board or the governing board or  
11 administrative district, as the case may be, for a joint  
12 agreement.

13 "Eligible applicant" means a school district, joint  
14 agreement made up of school districts, or regional  
15 superintendent of schools on behalf of schools and programs  
16 operated by the regional office of education.

17 "Implementation date" has the meaning set forth in  
18 Section 24A-2.5 of this Code.

19 "State Board" means the State Board of Education.

20 (b) Notwithstanding any other provisions of this School  
21 Code or any other law of this State to the contrary, eligible  
22 applicants may petition the State Board of Education for the  
23 waiver or modification of the mandates of this School Code or

1 of the administrative rules and regulations promulgated by the  
2 State Board of Education. Waivers or modifications of  
3 administrative rules and regulations and modifications of  
4 mandates of this School Code may be requested when an eligible  
5 applicant demonstrates that it can address the intent of the  
6 rule or mandate in a more effective, efficient, or economical  
7 manner or when necessary to stimulate innovation or improve  
8 student performance. Waivers of mandates of the School Code may  
9 be requested when the waivers are necessary to stimulate  
10 innovation or improve student performance or when the applicant  
11 demonstrates that it can address the intent of the mandate of  
12 the School Code in a more effective, efficient, or economical  
13 manner. Waivers may not be requested from laws, rules, and  
14 regulations pertaining to special education, teacher educator  
15 licensure, teacher tenure and seniority, or Section 5-2.1 of  
16 this Code or from compliance with the Every Student Succeeds  
17 Act (Public Law 114-95). Eligible applicants may not seek a  
18 waiver or seek a modification of a mandate regarding the  
19 requirements for (i) student performance data to be a  
20 significant factor in teacher or principal evaluations or (ii)  
21 teachers and principals to be rated using the 4 categories of  
22 "excellent", "proficient", "needs improvement", or  
23 "unsatisfactory". On September 1, 2014, any previously  
24 authorized waiver or modification from such requirements shall  
25 terminate.

26 (c) Eligible applicants, as a matter of inherent managerial

1 policy, and any Independent Authority established under  
2 Section 2-3.25f-5 of this Code may submit an application for a  
3 waiver or modification authorized under this Section. Each  
4 application must include a written request by the eligible  
5 applicant or Independent Authority and must demonstrate that  
6 the intent of the mandate can be addressed in a more effective,  
7 efficient, or economical manner or be based upon a specific  
8 plan for improved student performance and school improvement.  
9 Any eligible applicant requesting a waiver or modification for  
10 the reason that intent of the mandate can be addressed in a  
11 more economical manner shall include in the application a  
12 fiscal analysis showing current expenditures on the mandate and  
13 projected savings resulting from the waiver or modification.  
14 Applications and plans developed by eligible applicants must be  
15 approved by the board or regional superintendent of schools  
16 applying on behalf of schools or programs operated by the  
17 regional office of education following a public hearing on the  
18 application and plan and the opportunity for the board or  
19 regional superintendent to hear testimony from staff directly  
20 involved in its implementation, parents, and students. The time  
21 period for such testimony shall be separate from the time  
22 period established by the eligible applicant for public comment  
23 on other matters.

24 (c-5) If the applicant is a school district, then the  
25 district shall post information that sets forth the time, date,  
26 place, and general subject matter of the public hearing on its

1 Internet website at least 14 days prior to the hearing. If the  
2 district is requesting to increase the fee charged for driver  
3 education authorized pursuant to Section 27-24.2 of this Code,  
4 the website information shall include the proposed amount of  
5 the fee the district will request. All school districts must  
6 publish a notice of the public hearing at least 7 days prior to  
7 the hearing in a newspaper of general circulation within the  
8 school district that sets forth the time, date, place, and  
9 general subject matter of the hearing. Districts requesting to  
10 increase the fee charged for driver education shall include in  
11 the published notice the proposed amount of the fee the  
12 district will request. If the applicant is a joint agreement or  
13 regional superintendent, then the joint agreement or regional  
14 superintendent shall post information that sets forth the time,  
15 date, place, and general subject matter of the public hearing  
16 on its Internet website at least 14 days prior to the hearing.  
17 If the joint agreement or regional superintendent is requesting  
18 to increase the fee charged for driver education authorized  
19 pursuant to Section 27-24.2 of this Code, the website  
20 information shall include the proposed amount of the fee the  
21 applicant will request. All joint agreements and regional  
22 superintendents must publish a notice of the public hearing at  
23 least 7 days prior to the hearing in a newspaper of general  
24 circulation in each school district that is a member of the  
25 joint agreement or that is served by the educational service  
26 region that sets forth the time, date, place, and general

1 subject matter of the hearing, provided that a notice appearing  
2 in a newspaper generally circulated in more than one school  
3 district shall be deemed to fulfill this requirement with  
4 respect to all of the affected districts. Joint agreements or  
5 regional superintendents requesting to increase the fee  
6 charged for driver education shall include in the published  
7 notice the proposed amount of the fee the applicant will  
8 request. The eligible applicant must notify in writing the  
9 affected exclusive collective bargaining agent and those State  
10 legislators representing the eligible applicant's territory of  
11 its intent to seek approval of a waiver or modification and of  
12 the hearing to be held to take testimony from staff. The  
13 affected exclusive collective bargaining agents shall be  
14 notified of such public hearing at least 7 days prior to the  
15 date of the hearing and shall be allowed to attend such public  
16 hearing. The eligible applicant shall attest to compliance with  
17 all of the notification and procedural requirements set forth  
18 in this Section.

19 (d) A request for a waiver or modification of  
20 administrative rules and regulations or for a modification of  
21 mandates contained in this School Code shall be submitted to  
22 the State Board of Education within 15 days after approval by  
23 the board or regional superintendent of schools. The  
24 application as submitted to the State Board of Education shall  
25 include a description of the public hearing. Following receipt  
26 of the waiver or modification request, the State Board shall

1 have 45 days to review the application and request. If the  
2 State Board fails to disapprove the application within that 45  
3 day period, the waiver or modification shall be deemed granted.  
4 The State Board may disapprove any request if it is not based  
5 upon sound educational practices, endangers the health or  
6 safety of students or staff, compromises equal opportunities  
7 for learning, or fails to demonstrate that the intent of the  
8 rule or mandate can be addressed in a more effective,  
9 efficient, or economical manner or have improved student  
10 performance as a primary goal. Any request disapproved by the  
11 State Board may be appealed to the General Assembly by the  
12 eligible applicant as outlined in this Section.

13 A request for a waiver from mandates contained in this  
14 School Code shall be submitted to the State Board within 15  
15 days after approval by the board or regional superintendent of  
16 schools. The application as submitted to the State Board of  
17 Education shall include a description of the public hearing.  
18 The description shall include, but need not be limited to, the  
19 means of notice, the number of people in attendance, the number  
20 of people who spoke as proponents or opponents of the waiver, a  
21 brief description of their comments, and whether there were any  
22 written statements submitted. The State Board shall review the  
23 applications and requests for completeness and shall compile  
24 the requests in reports to be filed with the General Assembly.  
25 The State Board shall file reports outlining the waivers  
26 requested by eligible applicants and appeals by eligible

1 applicants of requests disapproved by the State Board with the  
2 Senate and the House of Representatives before each March 1 and  
3 October 1.

4 The report shall be reviewed by a panel of 4 members  
5 consisting of:

6 (1) the Speaker of the House of Representatives;

7 (2) the Minority Leader of the House of  
8 Representatives;

9 (3) the President of the Senate; and

10 (4) the Minority Leader of the Senate.

11 The State Board of Education may provide the panel  
12 recommendations on waiver requests. The members of the panel  
13 shall review the report submitted by the State Board of  
14 Education and submit to the State Board of Education any notice  
15 of further consideration to any waiver request within 14 days  
16 after the member receives the report. If 3 or more of the panel  
17 members submit a notice of further consideration to any waiver  
18 request contained within the report, the State Board of  
19 Education shall submit the waiver request to the General  
20 Assembly for consideration. If less than 3 panel members submit  
21 a notice of further consideration to a waiver request, the  
22 waiver may be approved, denied, or modified by the State Board.  
23 If the State Board does not act on a waiver request within 10  
24 days, then the waiver request is approved. If the waiver  
25 request is denied by the State Board, it shall submit the  
26 waiver request to the General Assembly for consideration.



1           The General Assembly may disapprove any waiver request  
2 submitted to the General Assembly pursuant to this subsection  
3 (d) in whole or in part within 60 calendar days after each  
4 house of the General Assembly next convenes after the waiver  
5 request is submitted by adoption of a resolution by a record  
6 vote of the majority of members elected in each house. If the  
7 General Assembly fails to disapprove any waiver request or  
8 appealed request within such 60 day period, the waiver or  
9 modification shall be deemed granted. Any resolution adopted by  
10 the General Assembly disapproving a report of the State Board  
11 in whole or in part shall be binding on the State Board.

12           (e) Except for a waiver from or modification to a physical  
13 education mandate, an ~~An~~ approved waiver or modification may  
14 remain in effect for a period not to exceed 5 school years and  
15 may be renewed upon application by the eligible applicant.  
16 However, such waiver or modification may be changed within that  
17 5-year period by a board or regional superintendent of schools  
18 applying on behalf of schools or programs operated by the  
19 regional office of education following the procedure as set  
20 forth in this Section for the initial waiver or modification  
21 request. If neither the State Board of Education nor the  
22 General Assembly disapproves, the change is deemed granted.

23           An approved waiver from or modification to a physical  
24 education mandate may remain in effect for a period not to  
25 exceed 2 school years and may be renewed no more than 2 times  
26 upon application by the eligible applicant. An approved waiver

1 from or modification to a physical education mandate may be  
2 changed within the 2-year period by the board or regional  
3 superintendent of schools, whichever is applicable, following  
4 the procedure set forth in this Section for the initial waiver  
5 or modification request. If neither the State Board of  
6 Education nor the General Assembly disapproves, the change is  
7 deemed granted.

8 (f) (Blank).

9 (Source: P.A. 99-78, eff. 7-20-15; 100-465, eff. 8-31-17.)

10 (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

11 Sec. 27-6. Courses in physical education required; special  
12 activities.

13 (a) Pupils enrolled in the public schools and State  
14 universities engaged in preparing teachers shall be required to  
15 engage ~~during the school day, except on block scheduled days~~  
16 ~~for those public schools engaged in block scheduling,~~ in  
17 courses of physical education for such periods as are  
18 compatible with the optimum growth and developmental needs of  
19 individuals at the various age levels except when appropriate  
20 excuses are submitted to the school by a pupil's parent or  
21 guardian or by a person licensed under the Medical Practice Act  
22 of 1987 and except as provided in subsection (b) of this  
23 Section. A school board may determine the schedule or frequency  
24 of physical education courses, provided that an elementary  
25 school pupil shall engage in a course of physical education for

1 a minimum of 150 minutes per week and a high school pupil shall  
2 engage in a course of physical education for a minimum of 225  
3 minutes per week ~~a pupil engages in a course of physical~~  
4 ~~education for a minimum of 3 days per 5-day week.~~

5 Special activities in physical education shall be provided  
6 for pupils whose physical or emotional condition, as determined  
7 by a person licensed under the Medical Practice Act of 1987,  
8 prevents their participation in the courses provided for normal  
9 children.

10 (b) A school board is authorized to excuse pupils enrolled  
11 in grades 11 and 12 from engaging in physical education courses  
12 if those pupils request to be excused for any of the following  
13 reasons: (1) for ongoing participation in an interscholastic  
14 athletic program; (2) to enroll in academic classes which are  
15 required for admission to an institution of higher learning,  
16 provided that failure to take such classes will result in the  
17 pupil being denied admission to the institution of his or her  
18 choice; or (3) to enroll in academic classes which are required  
19 for graduation from high school, provided that failure to take  
20 such classes will result in the pupil being unable to graduate.  
21 A school board may also excuse pupils in grades 9 through 12  
22 enrolled in a marching band program for credit from engaging in  
23 physical education courses if those pupils request to be  
24 excused for ongoing participation in such marching band  
25 program. A school board may also, on a case-by-case basis,  
26 excuse pupils in grades 7 through 12 who participate in an

1 interscholastic or extracurricular athletic program from  
2 engaging in physical education courses. In addition, a pupil in  
3 any of grades 3 through 12 who is eligible for special  
4 education may be excused if the pupil's parent or guardian  
5 agrees that the pupil must utilize the time set aside for  
6 physical education to receive special education support and  
7 services or, if there is no agreement, the individualized  
8 education program team for the pupil determines that the pupil  
9 must utilize the time set aside for physical education to  
10 receive special education support and services, which  
11 agreement or determination must be made a part of the  
12 individualized education program. However, a pupil requiring  
13 adapted physical education must receive that service in  
14 accordance with the individualized education program developed  
15 for the pupil. If requested, a school board is authorized to  
16 excuse a pupil from engaging in a physical education course if  
17 the pupil has an individualized educational program under  
18 Article 14 of this Code, is participating in an adaptive  
19 athletic program outside of the school setting, and documents  
20 such participation as determined by the school board. A school  
21 board may also excuse pupils in grades 9 through 12 enrolled in  
22 a Reserve Officer's Training Corps (ROTC) program sponsored by  
23 the school district from engaging in physical education  
24 courses. School boards which choose to exercise this authority  
25 shall establish a policy to excuse pupils on an individual  
26 basis.

1           (c) The provisions of this Section are subject to the  
2 provisions of Section 27-22.05.

3           (Source: P.A. 100-465, eff. 8-31-17.)

4           Section 99. Effective date. This Act takes effect July 1,  
5 2018.