



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Frank C. Watson

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Allows a joint agreement made up of school districts or a regional superintendent of schools on behalf of schools and programs operated by the regional office of education to apply for a waiver or modification of mandates within the School Code and State Board of Education rules. Effective immediately.

LRB093 19981 NHT 45725 b

FISCAL NOTE ACT
MAY APPLY

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 Section
5 2-3.25g 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 "State Board" means the State Board of Education.

18 (b) Notwithstanding any other provisions of this School
19 Code or any other law of this State to the contrary, eligible
20 applicants ~~school districts~~ may petition the State Board of
21 Education for the waiver or modification of the mandates of
22 this School Code or of the administrative rules and regulations
23 promulgated by the State Board of Education. Waivers or
24 modifications of administrative rules and regulations and
25 modifications of mandates of this School Code may be requested
26 when an eligible applicant ~~a school district~~ demonstrates that
27 it can address the intent of the rule or mandate in a more
28 effective, efficient, or economical manner or when necessary to
29 stimulate innovation or improve student performance. Waivers
30 of mandates of the School Code may be requested when the
31 waivers are necessary to stimulate innovation or improve
32 student performance. Waivers may not be requested from laws,

1 rules, and regulations pertaining to special education,
2 teacher certification, or teacher tenure and seniority or from
3 compliance with the No Child Left Behind Act of 2001 (Public
4 Law 107-110).

5 (c) Eligible applicants ~~School districts~~, as a matter of
6 inherent managerial policy, and any Independent Authority
7 established under Section 2-3.25f may submit an application for
8 a waiver or modification authorized under this Section. Each
9 application must include a written request by the eligible
10 applicant ~~school district~~ or Independent Authority and must
11 demonstrate that the intent of the mandate can be addressed in
12 a more effective, efficient, or economical manner or be based
13 upon a specific plan for improved student performance and
14 school improvement. Any eligible applicant ~~district~~ requesting
15 a waiver or modification for the reason that intent of the
16 mandate can be addressed in a more economical manner shall
17 include in the application a fiscal analysis showing current
18 expenditures on the mandate and projected savings resulting
19 from the waiver or modification. Applications and plans
20 developed by eligible applicants ~~school districts~~ must be
21 approved by the ~~each~~ board or regional superintendent of
22 schools applying on behalf of schools or programs operated by
23 the regional office of education ~~of education~~ following a
24 public hearing on the application and plan and the opportunity
25 for the board or regional superintendent to hear testimony from
26 educators directly involved in its implementation, parents,
27 and students. If the applicant is a school district or joint
28 agreement, the ~~Such~~ public hearing shall be held on a day other
29 than the day on which a regular meeting of the board is held.
30 If the applicant is a school district, the ~~The~~ public hearing
31 must be preceded by at least one published notice occurring at
32 least 7 days prior to the hearing in a newspaper of general
33 circulation within the school district that sets forth the
34 time, date, place, and general subject matter of the hearing.
35 If the applicant is a joint agreement or regional
36 superintendent, the public hearing must be preceded by at least

1 one published notice (setting forth the time, date, place, and
2 general subject matter of the hearing) occurring at least 7
3 days prior to the hearing in a newspaper of general circulation
4 in each school district that is a member of the joint agreement
5 or that is served by the educational service region, provided
6 that a notice appearing in a newspaper generally circulated in
7 more than one school district shall be deemed to fulfill this
8 requirement with respect to all of the affected districts. The
9 eligible applicant ~~school district~~ must notify in writing the
10 affected exclusive collective bargaining agent and those State
11 legislators representing the eligible applicant's territory
12 ~~district holding the public hearing of the district's~~ its
13 intent to seek approval of a waiver or modification and of the
14 hearing to be held to take testimony from educators. The
15 affected exclusive collective bargaining agents shall be
16 notified of such public hearing at least 7 days prior to the
17 date of the hearing and shall be allowed to attend such public
18 hearing. The eligible applicant ~~district~~ shall attest to
19 compliance with all of the notification and procedural
20 requirements set forth in this Section.

21 (d) A request for a waiver or modification of
22 administrative rules and regulations or for a modification of
23 mandates contained in this School Code shall be submitted to
24 the State Board of Education within 15 days after approval by
25 the board or regional superintendent of schools ~~of education~~.
26 The application as submitted to the State Board of Education
27 shall include a description of the public hearing. Following
28 receipt of the request, the State Board shall have 45 days to
29 review the application and request. If the State Board fails to
30 disapprove the application within that 45 day period, the
31 waiver or modification shall be deemed granted. The State Board
32 may disapprove any request if it is not based upon sound
33 educational practices, endangers the health or safety of
34 students or staff, compromises equal opportunities for
35 learning, or fails to demonstrate that the intent of the rule
36 or mandate can be addressed in a more effective, efficient, or

1 economical manner or have improved student performance as a
2 primary goal. Any request disapproved by the State Board may be
3 appealed to the General Assembly by the eligible applicant
4 ~~requesting school district~~ as outlined in this Section.

5 A request for a waiver from mandates contained in this
6 School Code shall be submitted to the State Board within 15
7 days after approval by the board or regional superintendent of
8 schools of education. The application as submitted to the State
9 Board of Education shall include a description of the public
10 hearing. The description shall include, but need not be limited
11 to, the means of notice, the number of people in attendance,
12 the number of people who spoke as proponents or opponents of
13 the waiver, a brief description of their comments, and whether
14 there were any written statements submitted. The State Board
15 shall review the applications and requests for completeness and
16 shall compile the requests in reports to be filed with the
17 General Assembly. The State Board shall file reports outlining
18 the waivers requested by eligible applicants ~~school districts~~
19 and appeals by eligible applicants ~~school districts~~ of requests
20 disapproved by the State Board with the Senate and the House of
21 Representatives before each May 1 and October 1. The General
22 Assembly may disapprove the report of the State Board in whole
23 or in part within 30 calendar days after each house of the
24 General Assembly next convenes after the report is filed by
25 adoption of a resolution by a record vote of the majority of
26 members elected in each house. If the General Assembly fails to
27 disapprove any waiver request or appealed request within such
28 30 day period, the waiver or modification shall be deemed
29 granted. Any resolution adopted by the General Assembly
30 disapproving a report of the State Board in whole or in part
31 shall be binding on the State Board.

32 (e) An approved waiver or modification may remain in effect
33 for a period not to exceed 5 school years and may be renewed
34 upon application by the eligible applicant ~~school district~~.
35 However, such waiver or modification may be changed within that
36 5-year period by a ~~local school district~~ board or regional

1 superintendent of schools applying on behalf of schools or
2 programs operated by the regional office of education following
3 the procedure as set forth in this Section for the initial
4 waiver or modification request. If neither the State Board of
5 Education nor the General Assembly disapproves, the change is
6 deemed granted.

7 (f) On or before February 1, 1998, and each year
8 thereafter, the State Board of Education shall submit a
9 cumulative report summarizing all types of waivers of ~~waiver~~
10 mandates and modifications of mandates granted by the State
11 Board or the General Assembly. The report shall identify the
12 topic of the waiver along with the number and percentage of
13 eligible applicants ~~school districts~~ for which the waiver has
14 been granted. The report shall also include any recommendations
15 from the State Board regarding the repeal or modification of
16 waived mandates.

17 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
18 revised 9-11-03.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.