

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 "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 may petition the State Board of Education for the  
21 waiver or modification of the mandates of this School Code or  
22 of the administrative rules and regulations promulgated by the  
23 State Board of Education. Waivers or modifications of  
24 administrative rules and regulations and modifications of  
25 mandates of this School Code may be requested when an eligible  
26 applicant demonstrates that it can address the intent of the  
27 rule or mandate in a more effective, efficient, or economical  
28 manner or when necessary to stimulate innovation or improve  
29 student performance. Waivers of mandates of the School Code may  
30 be requested when the waivers are necessary to stimulate  
31 innovation or improve student performance. Waivers may not be  
32 requested from laws, rules, and regulations pertaining to

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

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

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

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

1 outlined in this Section.

2 A request for a waiver from mandates contained in this  
3 School Code shall be submitted to the State Board within 15  
4 days after approval by the board or regional superintendent of  
5 schools. The application as submitted to the State Board of  
6 Education shall include a description of the public hearing.  
7 The description shall include, but need not be limited to, the  
8 means of notice, the number of people in attendance, the number  
9 of people who spoke as proponents or opponents of the waiver, a  
10 brief description of their comments, and whether there were any  
11 written statements submitted. The State Board shall review the  
12 applications and requests for completeness and shall compile  
13 the requests in reports to be filed with the General Assembly.  
14 The State Board shall file reports outlining the waivers  
15 requested by eligible applicants and appeals by eligible  
16 applicants of requests disapproved by the State Board with the  
17 Senate and the House of Representatives before each March ~~May~~ 1  
18 and October 1. The General Assembly may disapprove the report  
19 of the State Board in whole or in part within 60 ~~30~~ calendar  
20 days after each house of the General Assembly next convenes  
21 after the report is filed by adoption of a resolution by a  
22 record vote of the majority of members elected in each house.  
23 If the General Assembly fails to disapprove any waiver request  
24 or appealed request within such 60 ~~30~~ day period, the waiver or  
25 modification shall be deemed granted. Any resolution adopted by  
26 the General Assembly disapproving a report of the State Board  
27 in whole or in part shall be binding on the State Board.

28 (e) An approved waiver or modification may remain in effect  
29 for a period not to exceed 5 school years and may be renewed  
30 upon application by the eligible applicant. However, such  
31 waiver or modification may be changed within that 5-year period  
32 by a board or regional superintendent of schools applying on  
33 behalf of schools or programs operated by the regional office  
34 of education following the procedure as set forth in this  
35 Section for the initial waiver or modification request. If  
36 neither the State Board of Education nor the General Assembly

1 disapproves, the change is deemed granted.

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

11 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;  
12 93-707, eff. 7-9-04.)

13 (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

14 Sec. 27-6. Courses in physical education - Special  
15 activities.

16 (a) Pupils enrolled in the public schools and State  
17 universities engaged in preparing teachers shall, as soon as  
18 practicable, be required to engage daily~~7~~ during the school  
19 day, except on block scheduled days for those public schools  
20 engaged in block scheduling, in courses of physical education  
21 for such periods as are compatible with the optimum growth and  
22 development needs of individuals at the various age levels  
23 except when appropriate excuses are submitted to the school by  
24 a pupil's parent or guardian or by a person licensed under the  
25 Medical Practice Act of 1987 and except as provided in  
26 subsection (b) of this Section.

27 Special activities in physical education shall be provided  
28 for pupils whose physical or emotional condition, as determined  
29 by a person licensed under the Medical Practice Act of 1987,  
30 prevents their participation in the courses provided for normal  
31 children.

32 (b) A school board is authorized to excuse pupils enrolled  
33 in grades 11 and 12 from engaging in physical education courses  
34 if those pupils request to be excused for any of the following  
35 reasons: (1) for ongoing participation in an interscholastic

1 athletic program; (2) to enroll in academic classes which are  
2 required for admission to an institution of higher learning,  
3 provided that failure to take such classes will result in the  
4 pupil being denied admission to the institution of his or her  
5 choice; or (3) to enroll in academic classes which are required  
6 for graduation from high school, provided that failure to take  
7 such classes will result in the pupil being unable to graduate.  
8 A school board may also excuse pupils in grades 9 through 12  
9 enrolled in a marching band program for credit from engaging in  
10 physical education courses if those pupils request to be  
11 excused for ongoing participation in such marching band  
12 program. A school board may also excuse pupils in grades 9  
13 through 12 enrolled in a Reserve Officer's Training Corps  
14 (ROTC) program sponsored by the school district from engaging  
15 in physical education courses. School boards which choose to  
16 exercise this authority shall establish a policy to excuse  
17 pupils on an individual basis.

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

20 (Source: P.A. 88-269; 89-155, eff. 7-19-95; 89-175, eff.  
21 7-19-95; 89-626, eff. 8-9-96.)