

HB1337



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1337

Introduced 2/20/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Provides that waivers may not be requested from laws or rules pertaining to physical education or recess.

LRB095 08925 NHT 29114 b

A BILL FOR

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 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

1 administrative rules and regulations and modifications of
2 mandates of this School Code may be requested when an eligible
3 applicant demonstrates that it can address the intent of the
4 rule or mandate in a more effective, efficient, or economical
5 manner or when necessary to stimulate innovation or improve
6 student performance. Waivers of mandates of the School Code may
7 be requested when the waivers are necessary to stimulate
8 innovation or improve student performance. Waivers may not be
9 requested from laws, rules, and regulations pertaining to
10 special education, physical education, recess, teacher
11 certification, teacher tenure and seniority, or Section 5-2.1
12 of this Code or from compliance with the No Child Left Behind
13 Act of 2001 (Public Law 107-110).

14 (c) Eligible applicants, as a matter of inherent managerial
15 policy, and any Independent Authority established under
16 Section 2-3.25f may submit an application for a waiver or
17 modification authorized under this Section. Each application
18 must include a written request by the eligible applicant or
19 Independent Authority and must demonstrate that the intent of
20 the mandate can be addressed in a more effective, efficient, or
21 economical manner or be based upon a specific plan for improved
22 student performance and school improvement. Any eligible
23 applicant requesting a waiver or modification for the reason
24 that intent of the mandate can be addressed in a more
25 economical manner shall include in the application a fiscal
26 analysis showing current expenditures on the mandate and

1 projected savings resulting from the waiver or modification.
2 Applications and plans developed by eligible applicants must be
3 approved by the board or regional superintendent of schools
4 applying on behalf of schools or programs operated by the
5 regional office of education following a public hearing on the
6 application and plan and the opportunity for the board or
7 regional superintendent to hear testimony from staff directly
8 involved in its implementation, parents, and students. The time
9 period for such testimony shall be separate from the time
10 period established by the eligible applicant for public comment
11 on other matters. If the applicant is a school district or
12 joint agreement requesting a waiver or modification of Section
13 27-6 of this Code, the public hearing shall be held on a day
14 other than the day on which a regular meeting of the board is
15 held. If the applicant is a school district, the public hearing
16 must be preceded by at least one published notice occurring at
17 least 7 days prior to the hearing in a newspaper of general
18 circulation within the school district that sets forth the
19 time, date, place, and general subject matter of the hearing.
20 If the applicant is a joint agreement or regional
21 superintendent, the public hearing must be preceded by at least
22 one published notice (setting forth the time, date, place, and
23 general subject matter of the hearing) occurring at least 7
24 days prior to the hearing in a newspaper of general circulation
25 in each school district that is a member of the joint agreement
26 or that is served by the educational service region, provided

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

15 (d) A request for a waiver or modification of
16 administrative rules and regulations or for a modification of
17 mandates contained in this School Code shall be submitted to
18 the State Board of Education within 15 days after approval by
19 the board or regional superintendent of schools. The
20 application as submitted to the State Board of Education shall
21 include a description of the public hearing. Following receipt
22 of the request, the State Board shall have 45 days to review
23 the application and request. If the State Board fails to
24 disapprove the application within that 45 day period, the
25 waiver or modification shall be deemed granted. The State Board
26 may disapprove any request if it is not based upon sound

1 educational practices, endangers the health or safety of
2 students or staff, compromises equal opportunities for
3 learning, or fails to demonstrate that the intent of the rule
4 or mandate can be addressed in a more effective, efficient, or
5 economical manner or have improved student performance as a
6 primary goal. Any request disapproved by the State Board may be
7 appealed to the General Assembly by the eligible applicant as
8 outlined in this Section.

9 A request for a waiver from mandates contained in this
10 School Code shall be submitted to the State Board within 15
11 days after approval by the board or regional superintendent of
12 schools. The application as submitted to the State Board of
13 Education shall include a description of the public hearing.
14 The description shall include, but need not be limited to, the
15 means of notice, the number of people in attendance, the number
16 of people who spoke as proponents or opponents of the waiver, a
17 brief description of their comments, and whether there were any
18 written statements submitted. The State Board shall review the
19 applications and requests for completeness and shall compile
20 the requests in reports to be filed with the General Assembly.
21 The State Board shall file reports outlining the waivers
22 requested by eligible applicants and appeals by eligible
23 applicants of requests disapproved by the State Board with the
24 Senate and the House of Representatives before each March 1 and
25 October 1. The General Assembly may disapprove the report of
26 the State Board in whole or in part within 60 calendar days

1 after each house of the General Assembly next convenes after
2 the report is filed by adoption of a resolution by a record
3 vote of the majority of members elected in each house. If the
4 General Assembly fails to disapprove any waiver request or
5 appealed request within such 60 day period, the waiver or
6 modification shall be deemed granted. Any resolution adopted by
7 the General Assembly disapproving a report of the State Board
8 in whole or in part shall be binding on the State Board.

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

19 (f) On or before February 1, 1998, and each year
20 thereafter, the State Board of Education shall submit a
21 cumulative report summarizing all types of waivers of mandates
22 and modifications of mandates granted by the State Board or the
23 General Assembly. The report shall identify the topic of the
24 waiver along with the number and percentage of eligible
25 applicants for which the waiver has been granted. The report
26 shall also include any recommendations from the State Board

1 regarding the repeal or modification of waived mandates.
2 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
3 93-707, eff. 7-9-04; 94-198, eff. 1-1-06; 94-432, eff. 8-2-05;
4 94-875, eff. 7-1-06.)