



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1839

Introduced 2/23/2007, by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. In provisions concerning the waiver or modification of mandates within the School Code and administrative rules, provides that an approved waiver from or modification to a physical education mandate may remain in effect for a period not to exceed 2 (instead of 5) school years and may be renewed no more than 2 times upon application by the eligible applicant (now there is no limit on the number of renewals).

LRB095 08634 NHT 28817 b

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, teacher certification, teacher tenure and
11 seniority, or Section 5-2.1 of this Code or from compliance
12 with the No Child Left Behind Act of 2001 (Public Law 107-110).

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

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

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

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

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

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

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

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

19 An approved waiver from or modification to a physical
20 education mandate may remain in effect for a period not to
21 exceed 2 school years and may be renewed no more than 2 times
22 upon application by the eligible applicant. An approved waiver
23 from or modification to a physical education mandate may be
24 changed within the 2-year period by the board or regional
25 superintendent of schools, whichever is applicable, following
26 the procedure set forth in this Section for the initial waiver

1 or modification request. If neither the State Board of
2 Education nor the General Assembly disapproves, the change is
3 deemed granted.

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

13 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
14 93-707, eff. 7-9-04; 94-198, eff. 1-1-06; 94-432, eff. 8-2-05;
15 94-875, eff. 7-1-06.)