

SB1850



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1850

Introduced 2/20/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

105 ILCS 5/34-18
30 ILCS 805/8.33 new

from Ch. 122, par. 34-18

Amends the Chicago School District Article of the School Code. Provides that the Chicago Board of Education has the power to contract with third parties for services otherwise performed by employees, excluding (instead of including) those in a bargaining unit. Amends the State Mandates Act to require implementation without reimbursement.

LRB096 08485 NHT 18605 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 34-18 as follows:

6 (105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

7 Sec. 34-18. Powers of the board. The board shall exercise
8 general supervision and jurisdiction over the public education
9 and the public school system of the city, and, except as
10 otherwise provided by this Article, shall have power:

11 1. To make suitable provision for the establishment and
12 maintenance throughout the year or for such portion thereof
13 as it may direct, not less than 9 months, of schools of all
14 grades and kinds, including normal schools, high schools,
15 night schools, schools for defectives and delinquents,
16 parental and truant schools, schools for the blind, the
17 deaf and the crippled, schools or classes in manual
18 training, constructural and vocational teaching, domestic
19 arts and physical culture, vocation and extension schools
20 and lecture courses, and all other educational courses and
21 facilities, including establishing, equipping, maintaining
22 and operating playgrounds and recreational programs, when
23 such programs are conducted in, adjacent to, or connected

1 with any public school under the general supervision and
2 jurisdiction of the board; provided that the calendar for
3 the school term and any changes must be submitted to and
4 approved by the State Board of Education before the
5 calendar or changes may take effect, and provided that in
6 allocating funds from year to year for the operation of all
7 attendance centers within the district, the board shall
8 ensure that supplemental general State aid funds are
9 allocated and applied in accordance with Section 18-8 or
10 18-8.05. To admit to such schools without charge foreign
11 exchange students who are participants in an organized
12 exchange student program which is authorized by the board.
13 The board shall permit all students to enroll in
14 apprenticeship programs in trade schools operated by the
15 board, whether those programs are union-sponsored or not.
16 No student shall be refused admission into or be excluded
17 from any course of instruction offered in the common
18 schools by reason of that student's sex. No student shall
19 be denied equal access to physical education and
20 interscholastic athletic programs supported from school
21 district funds or denied participation in comparable
22 physical education and athletic programs solely by reason
23 of the student's sex. Equal access to programs supported
24 from school district funds and comparable programs will be
25 defined in rules promulgated by the State Board of
26 Education in consultation with the Illinois High School

1 Association. Notwithstanding any other provision of this
2 Article, neither the board of education nor any local
3 school council or other school official shall recommend
4 that children with disabilities be placed into regular
5 education classrooms unless those children with
6 disabilities are provided with supplementary services to
7 assist them so that they benefit from the regular classroom
8 instruction and are included on the teacher's regular
9 education class register;

10 2. To furnish lunches to pupils, to make a reasonable
11 charge therefor, and to use school funds for the payment of
12 such expenses as the board may determine are necessary in
13 conducting the school lunch program;

14 3. To co-operate with the circuit court;

15 4. To make arrangements with the public or quasi-public
16 libraries and museums for the use of their facilities by
17 teachers and pupils of the public schools;

18 5. To employ dentists and prescribe their duties for
19 the purpose of treating the pupils in the schools, but
20 accepting such treatment shall be optional with parents or
21 guardians;

22 6. To grant the use of assembly halls and classrooms
23 when not otherwise needed, including light, heat, and
24 attendants, for free public lectures, concerts, and other
25 educational and social interests, free of charge, under
26 such provisions and control as the principal of the

1 affected attendance center may prescribe;

2 7. To apportion the pupils to the several schools;
3 provided that no pupil shall be excluded from or segregated
4 in any such school on account of his color, race, sex, or
5 nationality. The board shall take into consideration the
6 prevention of segregation and the elimination of
7 separation of children in public schools because of color,
8 race, sex, or nationality. Except that children may be
9 committed to or attend parental and social adjustment
10 schools established and maintained either for boys or girls
11 only. All records pertaining to the creation, alteration or
12 revision of attendance areas shall be open to the public.
13 Nothing herein shall limit the board's authority to
14 establish multi-area attendance centers or other student
15 assignment systems for desegregation purposes or
16 otherwise, and to apportion the pupils to the several
17 schools. Furthermore, beginning in school year 1994-95,
18 pursuant to a board plan adopted by October 1, 1993, the
19 board shall offer, commencing on a phased-in basis, the
20 opportunity for families within the school district to
21 apply for enrollment of their children in any attendance
22 center within the school district which does not have
23 selective admission requirements approved by the board.
24 The appropriate geographical area in which such open
25 enrollment may be exercised shall be determined by the
26 board of education. Such children may be admitted to any

1 such attendance center on a space available basis after all
2 children residing within such attendance center's area
3 have been accommodated. If the number of applicants from
4 outside the attendance area exceed the space available,
5 then successful applicants shall be selected by lottery.
6 The board of education's open enrollment plan must include
7 provisions that allow low income students to have access to
8 transportation needed to exercise school choice. Open
9 enrollment shall be in compliance with the provisions of
10 the Consent Decree and Desegregation Plan cited in Section
11 34-1.01;

12 8. To approve programs and policies for providing
13 transportation services to students. Nothing herein shall
14 be construed to permit or empower the State Board of
15 Education to order, mandate, or require busing or other
16 transportation of pupils for the purpose of achieving
17 racial balance in any school;

18 9. Subject to the limitations in this Article, to
19 establish and approve system-wide curriculum objectives
20 and standards, including graduation standards, which
21 reflect the multi-cultural diversity in the city and are
22 consistent with State law, provided that for all purposes
23 of this Article courses or proficiency in American Sign
24 Language shall be deemed to constitute courses or
25 proficiency in a foreign language; and to employ principals
26 and teachers, appointed as provided in this Article, and

1 fix their compensation. The board shall prepare such
2 reports related to minimal competency testing as may be
3 requested by the State Board of Education, and in addition
4 shall monitor and approve special education and bilingual
5 education programs and policies within the district to
6 assure that appropriate services are provided in
7 accordance with applicable State and federal laws to
8 children requiring services and education in those areas;

9 10. To employ non-teaching personnel or utilize
10 volunteer personnel for: (i) non-teaching duties not
11 requiring instructional judgment or evaluation of pupils,
12 including library duties; and (ii) supervising study
13 halls, long distance teaching reception areas used
14 incident to instructional programs transmitted by
15 electronic media such as computers, video, and audio,
16 detention and discipline areas, and school-sponsored
17 extracurricular activities. The board may further utilize
18 volunteer non-certificated personnel or employ
19 non-certificated personnel to assist in the instruction of
20 pupils under the immediate supervision of a teacher holding
21 a valid certificate, directly engaged in teaching subject
22 matter or conducting activities; provided that the teacher
23 shall be continuously aware of the non-certificated
24 persons' activities and shall be able to control or modify
25 them. The general superintendent shall determine
26 qualifications of such personnel and shall prescribe rules

1 for determining the duties and activities to be assigned to
2 such personnel;

3 10.5. To utilize volunteer personnel from a regional
4 School Crisis Assistance Team (S.C.A.T.), created as part
5 of the Safe to Learn Program established pursuant to
6 Section 25 of the Illinois Violence Prevention Act of 1995,
7 to provide assistance to schools in times of violence or
8 other traumatic incidents within a school community by
9 providing crisis intervention services to lessen the
10 effects of emotional trauma on individuals and the
11 community; the School Crisis Assistance Team Steering
12 Committee shall determine the qualifications for
13 volunteers;

14 11. To provide television studio facilities in not to
15 exceed one school building and to provide programs for
16 educational purposes, provided, however, that the board
17 shall not construct, acquire, operate, or maintain a
18 television transmitter; to grant the use of its studio
19 facilities to a licensed television station located in the
20 school district; and to maintain and operate not to exceed
21 one school radio transmitting station and provide programs
22 for educational purposes;

23 12. To offer, if deemed appropriate, outdoor education
24 courses, including field trips within the State of
25 Illinois, or adjacent states, and to use school educational
26 funds for the expense of the said outdoor educational

1 programs, whether within the school district or not;

2 13. During that period of the calendar year not
3 embraced within the regular school term, to provide and
4 conduct courses in subject matters normally embraced in the
5 program of the schools during the regular school term and
6 to give regular school credit for satisfactory completion
7 by the student of such courses as may be approved for
8 credit by the State Board of Education;

9 14. To insure against any loss or liability of the
10 board, the former School Board Nominating Commission,
11 Local School Councils, the Chicago Schools Academic
12 Accountability Council, or the former Subdistrict Councils
13 or of any member, officer, agent or employee thereof,
14 resulting from alleged violations of civil rights arising
15 from incidents occurring on or after September 5, 1967 or
16 from the wrongful or negligent act or omission of any such
17 person whether occurring within or without the school
18 premises, provided the officer, agent or employee was, at
19 the time of the alleged violation of civil rights or
20 wrongful act or omission, acting within the scope of his
21 employment or under direction of the board, the former
22 School Board Nominating Commission, the Chicago Schools
23 Academic Accountability Council, Local School Councils, or
24 the former Subdistrict Councils; and to provide for or
25 participate in insurance plans for its officers and
26 employees, including but not limited to retirement

1 annuities, medical, surgical and hospitalization benefits
2 in such types and amounts as may be determined by the
3 board; provided, however, that the board shall contract for
4 such insurance only with an insurance company authorized to
5 do business in this State. Such insurance may include
6 provision for employees who rely on treatment by prayer or
7 spiritual means alone for healing, in accordance with the
8 tenets and practice of a recognized religious
9 denomination;

10 15. To contract with the corporate authorities of any
11 municipality or the county board of any county, as the case
12 may be, to provide for the regulation of traffic in parking
13 areas of property used for school purposes, in such manner
14 as is provided by Section 11-209 of The Illinois Vehicle
15 Code, approved September 29, 1969, as amended;

16 16. (a) To provide, on an equal basis, access to a high
17 school campus and student directory information to the
18 official recruiting representatives of the armed forces of
19 Illinois and the United States for the purposes of
20 informing students of the educational and career
21 opportunities available in the military if the board has
22 provided such access to persons or groups whose purpose is
23 to acquaint students with educational or occupational
24 opportunities available to them. The board is not required
25 to give greater notice regarding the right of access to
26 recruiting representatives than is given to other persons

1 and groups. In this paragraph 16, "directory information"
2 means a high school student's name, address, and telephone
3 number.

4 (b) If a student or his or her parent or guardian
5 submits a signed, written request to the high school before
6 the end of the student's sophomore year (or if the student
7 is a transfer student, by another time set by the high
8 school) that indicates that the student or his or her
9 parent or guardian does not want the student's directory
10 information to be provided to official recruiting
11 representatives under subsection (a) of this Section, the
12 high school may not provide access to the student's
13 directory information to these recruiting representatives.
14 The high school shall notify its students and their parents
15 or guardians of the provisions of this subsection (b).

16 (c) A high school may require official recruiting
17 representatives of the armed forces of Illinois and the
18 United States to pay a fee for copying and mailing a
19 student's directory information in an amount that is not
20 more than the actual costs incurred by the high school.

21 (d) Information received by an official recruiting
22 representative under this Section may be used only to
23 provide information to students concerning educational and
24 career opportunities available in the military and may not
25 be released to a person who is not involved in recruiting
26 students for the armed forces of Illinois or the United

1 States;

2 17. (a) To sell or market any computer program
3 developed by an employee of the school district, provided
4 that such employee developed the computer program as a
5 direct result of his or her duties with the school district
6 or through the utilization of the school district resources
7 or facilities. The employee who developed the computer
8 program shall be entitled to share in the proceeds of such
9 sale or marketing of the computer program. The distribution
10 of such proceeds between the employee and the school
11 district shall be as agreed upon by the employee and the
12 school district, except that neither the employee nor the
13 school district may receive more than 90% of such proceeds.
14 The negotiation for an employee who is represented by an
15 exclusive bargaining representative may be conducted by
16 such bargaining representative at the employee's request.

17 (b) For the purpose of this paragraph 17:

18 (1) "Computer" means an internally programmed,
19 general purpose digital device capable of
20 automatically accepting data, processing data and
21 supplying the results of the operation.

22 (2) "Computer program" means a series of coded
23 instructions or statements in a form acceptable to a
24 computer, which causes the computer to process data in
25 order to achieve a certain result.

26 (3) "Proceeds" means profits derived from

1 marketing or sale of a product after deducting the
2 expenses of developing and marketing such product;

3 18. To delegate to the general superintendent of
4 schools, by resolution, the authority to approve contracts
5 and expenditures in amounts of \$10,000 or less;

6 19. Upon the written request of an employee, to
7 withhold from the compensation of that employee any dues,
8 payments or contributions payable by such employee to any
9 labor organization as defined in the Illinois Educational
10 Labor Relations Act. Under such arrangement, an amount
11 shall be withheld from each regular payroll period which is
12 equal to the pro rata share of the annual dues plus any
13 payments or contributions, and the board shall transmit
14 such withholdings to the specified labor organization
15 within 10 working days from the time of the withholding;

16 19a. Upon receipt of notice from the comptroller of a
17 municipality with a population of 500,000 or more, a county
18 with a population of 3,000,000 or more, the Cook County
19 Forest Preserve District, the Chicago Park District, the
20 Metropolitan Water Reclamation District, the Chicago
21 Transit Authority, or a housing authority of a municipality
22 with a population of 500,000 or more that a debt is due and
23 owing the municipality, the county, the Cook County Forest
24 Preserve District, the Chicago Park District, the
25 Metropolitan Water Reclamation District, the Chicago
26 Transit Authority, or the housing authority by an employee

1 of the Chicago Board of Education, to withhold, from the
2 compensation of that employee, the amount of the debt that
3 is due and owing and pay the amount withheld to the
4 municipality, the county, the Cook County Forest Preserve
5 District, the Chicago Park District, the Metropolitan
6 Water Reclamation District, the Chicago Transit Authority,
7 or the housing authority; provided, however, that the
8 amount deducted from any one salary or wage payment shall
9 not exceed 25% of the net amount of the payment. Before the
10 Board deducts any amount from any salary or wage of an
11 employee under this paragraph, the municipality, the
12 county, the Cook County Forest Preserve District, the
13 Chicago Park District, the Metropolitan Water Reclamation
14 District, the Chicago Transit Authority, or the housing
15 authority shall certify that (i) the employee has been
16 afforded an opportunity for a hearing to dispute the debt
17 that is due and owing the municipality, the county, the
18 Cook County Forest Preserve District, the Chicago Park
19 District, the Metropolitan Water Reclamation District, the
20 Chicago Transit Authority, or the housing authority and
21 (ii) the employee has received notice of a wage deduction
22 order and has been afforded an opportunity for a hearing to
23 object to the order. For purposes of this paragraph, "net
24 amount" means that part of the salary or wage payment
25 remaining after the deduction of any amounts required by
26 law to be deducted and "debt due and owing" means (i) a

1 specified sum of money owed to the municipality, the
2 county, the Cook County Forest Preserve District, the
3 Chicago Park District, the Metropolitan Water Reclamation
4 District, the Chicago Transit Authority, or the housing
5 authority for services, work, or goods, after the period
6 granted for payment has expired, or (ii) a specified sum of
7 money owed to the municipality, the county, the Cook County
8 Forest Preserve District, the Chicago Park District, the
9 Metropolitan Water Reclamation District, the Chicago
10 Transit Authority, or the housing authority pursuant to a
11 court order or order of an administrative hearing officer
12 after the exhaustion of, or the failure to exhaust,
13 judicial review;

14 20. The board is encouraged to employ a sufficient
15 number of certified school counselors to maintain a
16 student/counselor ratio of 250 to 1 by July 1, 1990. Each
17 counselor shall spend at least 75% of his work time in
18 direct contact with students and shall maintain a record of
19 such time;

20 21. To make available to students vocational and career
21 counseling and to establish 5 special career counseling
22 days for students and parents. On these days
23 representatives of local businesses and industries shall
24 be invited to the school campus and shall inform students
25 of career opportunities available to them in the various
26 businesses and industries. Special consideration shall be

1 given to counseling minority students as to career
2 opportunities available to them in various fields. For the
3 purposes of this paragraph, minority student means a person
4 who is:

5 (a) Black (a person having origins in any of the
6 black racial groups in Africa);

7 (b) Hispanic (a person of Spanish or Portuguese
8 culture with origins in Mexico, South or Central
9 America, or the Caribbean islands, regardless of
10 race);

11 (c) Asian American (a person having origins in any
12 of the original peoples of the Far East, Southeast
13 Asia, the Indian Subcontinent or the Pacific Islands);
14 or

15 (d) American Indian or Alaskan Native (a person
16 having origins in any of the original peoples of North
17 America).

18 Counseling days shall not be in lieu of regular school
19 days;

20 22. To report to the State Board of Education the
21 annual student dropout rate and number of students who
22 graduate from, transfer from or otherwise leave bilingual
23 programs;

24 23. Except as otherwise provided in the Abused and
25 Neglected Child Reporting Act or other applicable State or
26 federal law, to permit school officials to withhold, from

1 any person, information on the whereabouts of any child
2 removed from school premises when the child has been taken
3 into protective custody as a victim of suspected child
4 abuse. School officials shall direct such person to the
5 Department of Children and Family Services, or to the local
6 law enforcement agency if appropriate;

7 24. To develop a policy, based on the current state of
8 existing school facilities, projected enrollment and
9 efficient utilization of available resources, for capital
10 improvement of schools and school buildings within the
11 district, addressing in that policy both the relative
12 priority for major repairs, renovations and additions to
13 school facilities, and the advisability or necessity of
14 building new school facilities or closing existing schools
15 to meet current or projected demographic patterns within
16 the district;

17 25. To make available to the students in every high
18 school attendance center the ability to take all courses
19 necessary to comply with the Board of Higher Education's
20 college entrance criteria effective in 1993;

21 26. To encourage mid-career changes into the teaching
22 profession, whereby qualified professionals become
23 certified teachers, by allowing credit for professional
24 employment in related fields when determining point of
25 entry on teacher pay scale;

26 27. To provide or contract out training programs for

1 administrative personnel and principals with revised or
2 expanded duties pursuant to this Act in order to assure
3 they have the knowledge and skills to perform their duties;

4 28. To establish a fund for the prioritized special
5 needs programs, and to allocate such funds and other lump
6 sum amounts to each attendance center in a manner
7 consistent with the provisions of part 4 of Section 34-2.3.
8 Nothing in this paragraph shall be construed to require any
9 additional appropriations of State funds for this purpose;

10 29. (Blank);

11 30. Notwithstanding any other provision of this Act or
12 any other law to the contrary, to contract with third
13 parties for services otherwise performed by employees,
14 excluding ~~including~~ those in a bargaining unit, and to
15 layoff those employees upon 14 days written notice to the
16 affected employees. Those contracts may be for a period not
17 to exceed 5 years and may be awarded on a system-wide
18 basis;

19 31. To promulgate rules establishing procedures
20 governing the layoff or reduction in force of employees and
21 the recall of such employees, including, but not limited
22 to, criteria for such layoffs, reductions in force or
23 recall rights of such employees and the weight to be given
24 to any particular criterion. Such criteria shall take into
25 account factors including, but not be limited to,
26 qualifications, certifications, experience, performance

1 ratings or evaluations, and any other factors relating to
2 an employee's job performance;

3 32. To develop a policy to prevent nepotism in the
4 hiring of personnel or the selection of contractors;

5 33. To enter into a partnership agreement, as required
6 by Section 34-3.5 of this Code, and, notwithstanding any
7 other provision of law to the contrary, to promulgate
8 policies, enter into contracts, and take any other action
9 necessary to accomplish the objectives and implement the
10 requirements of that agreement; and

11 34. To establish a Labor Management Council to the
12 board comprised of representatives of the board, the chief
13 executive officer, and those labor organizations that are
14 the exclusive representatives of employees of the board and
15 to promulgate policies and procedures for the operation of
16 the Council.

17 The specifications of the powers herein granted are not to
18 be construed as exclusive but the board shall also exercise all
19 other powers that they may be requisite or proper for the
20 maintenance and the development of a public school system, not
21 inconsistent with the other provisions of this Article or
22 provisions of this Code which apply to all school districts.

23 In addition to the powers herein granted and authorized to
24 be exercised by the board, it shall be the duty of the board to
25 review or to direct independent reviews of special education
26 expenditures and services. The board shall file a report of

1 such review with the General Assembly on or before May 1, 1990.
2 (Source: P.A. 92-109, eff. 7-20-01; 92-527, eff. 6-1-02;
3 92-724, eff. 7-25-02; 93-3, eff. 4-16-03; 93-1036, eff.
4 9-14-04.)

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.33 as follows:

7 (30 ILCS 805/8.33 new)

8 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 96th General Assembly.