



Rep. William Davis

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LRB100 02969 MLM 27241 a

1 AMENDMENT TO HOUSE BILL 1261

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1261 by replacing  
3 everything after the enacting clause as follows:

4 "Section 5. The School Code is amended by changing Sections  
5 10-22.34c and 22-62 as follows:

6 (105 ILCS 5/10-22.34c)

7 Sec. 10-22.34c. Third party non-instructional services.

8 (a) A board of education may enter into a contract with a  
9 third party for non-instructional services currently performed  
10 by any employee or bargaining unit member or lay off those  
11 educational support personnel employees upon 90 days written  
12 notice to the affected employees, provided that:

13 (1) a contract must not be entered into and become  
14 effective during the term of a collective bargaining  
15 agreement, as that term is set forth in the agreement,  
16 covering any employees who perform the non-instructional

1 services;

2 (2) a contract may only take effect upon the expiration  
3 of an existing collective bargaining agreement;

4 (3) any third party that submits a bid to perform the  
5 non-instructional services shall provide the following:

6 (A) evidence of liability insurance in scope and  
7 amount equivalent to the liability insurance provided  
8 by the school board pursuant to Section 10-22.3 of this  
9 Code;

10 (B) (blank); ~~a benefits package for the third~~  
11 ~~party's employees who will perform the~~  
12 ~~non-instructional services comparable to the benefits~~  
13 ~~package provided to school board employees who perform~~  
14 ~~those services;~~

15 (C) a list of the number of employees who will  
16 provide the non-instructional services, the job  
17 classifications of those employees, and the wages the  
18 third party will pay those employees;

19 (D) a minimum 3-year cost projection, using  
20 generally accepted accounting principles and which the  
21 third party is prohibited from increasing if the bid is  
22 accepted by the school board, for each and every  
23 expenditure category and account for performing the  
24 non-instructional services; if the bid is accepted,  
25 the school board shall file a copy of the cost  
26 projection submitted with the bid to the State Board of

1           Education;

2           (E) composite information about the criminal and  
3           disciplinary records, including alcohol or other  
4           substance abuse, Department of Children and Family  
5           Services complaints and investigations, traffic  
6           violations, and license revocations or any other  
7           licensure problems, of any employees who may perform  
8           the non-instructional services, provided that the  
9           individual names and other identifying information of  
10          employees need not be provided with the submission of  
11          the bid, but must be made available upon request of the  
12          school board; and

13          (F) an affidavit, notarized by the president or  
14          chief executive officer of the third party, that each  
15          of its employees has completed a criminal background  
16          check as required by Section 10-21.9 of this Code  
17          within 3 months prior to submission of the bid,  
18          provided that the results of such background checks  
19          need not be provided with the submission of the bid,  
20          but must be made available upon request of the school  
21          board;

22          (4) a contract must not be entered into unless the  
23          school board provides a cost comparison, using generally  
24          accepted accounting principles, of each and every  
25          expenditure category and account that the school board  
26          projects it would incur over the term of the contract if it

1 continued to perform the non-instructional services using  
2 its own employees with each and every expenditure category  
3 and account that is projected a third party would incur if  
4 a third party performed the non-instructional services;

5 (5) review and consideration of all bids by third  
6 parties to perform the non-instructional services shall  
7 take place in open session of a regularly scheduled school  
8 board meeting, unless the exclusive bargaining  
9 representative of the employees who perform the  
10 non-instructional services, if any such exclusive  
11 bargaining representative exists, agrees in writing that  
12 such review and consideration can take place in open  
13 session at a specially scheduled school board meeting;

14 (6) a minimum of one public hearing, conducted by the  
15 school board prior to a regularly scheduled school board  
16 meeting, to discuss the school board's proposal to contract  
17 with a third party to perform the non-instructional  
18 services must be held before the school board may enter  
19 into such a contract; the school board must provide notice  
20 to the public of the date, time, and location of the first  
21 public hearing on or before the initial date that bids to  
22 provide the non-instructional services are solicited or a  
23 minimum of 30 days prior to entering into such a contract,  
24 whichever provides a greater period of notice;

25 (7) a contract shall contain provisions requiring the  
26 contractor to offer available employee positions pursuant

1 to the contract to qualified school district employees  
2 whose employment is terminated because of the contract; and

3 (8) a contract shall contain provisions requiring the  
4 contractor to comply with a policy of nondiscrimination and  
5 equal employment opportunity for all persons and to take  
6 affirmative steps to provide equal opportunity for all  
7 persons.

8 (b) Notwithstanding subsection (a) of this Section, a board  
9 of education may enter into a contract, of no longer than 3  
10 months in duration, with a third party for non-instructional  
11 services currently performed by an employee or bargaining unit  
12 member for the purpose of augmenting the current workforce in  
13 an emergency situation that threatens the safety or health of  
14 the school district's students or staff, provided that the  
15 school board meets all of its obligations under the Illinois  
16 Educational Labor Relations Act.

17 (c) The changes to this Section made by this amendatory Act  
18 of the 95th General Assembly are not applicable to  
19 non-instructional services of a school district that on the  
20 effective date of this amendatory Act of the 95th General  
21 Assembly are performed for the school district by a third  
22 party.

23 (d) Beginning July 1, 2022, the State Board of Education  
24 shall review and analyze the cost projection information  
25 provided by boards of education under subparagraph (D) of  
26 paragraph (3) of subsection (a) of this Section and determine

1 the effects that the contracts had on school districts and the  
2 State, including any cost savings and economic benefits. The  
3 State Board of Education shall complete the review and report  
4 its findings to the Governor and the General Assembly by  
5 December 31, 2022.

6 From July 1, 2022 until January 1, 2023, no board of  
7 education may enter into any new contract with a third party  
8 for non-instructional services under this Section. However,  
9 this prohibition shall not affect any contracts entered into  
10 before July 1, 2022 or renewals of contracts entered into  
11 before July 1, 2022.

12 Beginning January 1, 2023, boards of education are again  
13 allowed to enter into contracts with third parties for  
14 non-instructional services as provided under this Section.

15 (Source: P.A. 95-241, eff. 8-17-07; 96-328, eff. 8-11-09.)

16 (105 ILCS 5/22-62 new)

17 Sec. 22-62. Discharge of unfunded mandates.

18 (a) School districts need not comply with and may discharge  
19 any mandate or requirement placed on school districts by this  
20 Code or by administrative rules adopted by the State Board of  
21 Education that is unfunded.

22 (b) Subsection (a) of this Section does not apply to any of  
23 the following:

24 (1) Laws and rules pertaining to student health, life,  
25 or safety.

1           (2) Federally required mandates, including without  
2           limitation compliance with the federal Every Student  
3           Succeeds Act.

4           (3) Laws and rules pertaining to civil rights and  
5           protections.

6           (c) Before a school district may lawfully discharge an  
7           unfunded mandate under subsection (a) of this Section, it must  
8           hold a public hearing and referendum on the matter. The school  
9           district must post information that sets forth the time, date,  
10           place, and general subject matter of the public hearing on its  
11           Internet website at least 14 days prior to the hearing. The  
12           school district must publish a notice of the public hearing at  
13           least 7 days prior to the hearing in a newspaper of general  
14           circulation within the school district that sets forth the  
15           time, date, place, and general subject matter of the hearing.  
16           The school district must notify, in writing, the affected  
17           exclusive collective bargaining agent and those State  
18           legislators representing the affected territory of its intent  
19           to discharge an unfunded mandate and of the hearing to be held  
20           to take testimony from staff. The affected exclusive collective  
21           bargaining agent must be notified of the public hearing at  
22           least 7 days prior to the date of the hearing and must be  
23           allowed to attend the hearing. The school district shall attest  
24           to compliance with the requirements of this subsection (c).

25           After the public hearing, the question of whether a school  
26           district may discharge an unfunded mandate must be submitted to

1 the electors of the school district at a regular election and  
2 approved by a majority of the electors voting on the question.  
3 The school board must certify the question to the proper  
4 election authority. The election authority must submit the  
5 question at an election in accordance with the Election Code,  
6 which election must be at least 6 months after the public  
7 hearing was held. The election authority must submit the  
8 question in substantially the following form:

9 Shall the school board of (name of school district)  
10 discharge the unfunded mandate or requirement placed on the  
11 school district by the State concerning (description of the  
12 mandate or requirement)?

13 The election authority must record the votes as "Yes" or "No".

14 If a majority of the electors voting on the question vote  
15 in the affirmative, the school board may discharge the unfunded  
16 mandate.

17 (d) A school board shall report each unfunded mandate it  
18 has discharged under this Section to the State Board of  
19 Education. The State Board shall compile and report this  
20 information to the General Assembly each year.

21 (105 ILCS 5/22-60 rep.)

22 Section 10. The School Code is amended by repealing Section  
23 22-60.



1           Section 99. Effective date. This Act takes effect upon  
2 becoming law, but this Act does not take effect at all unless  
3 Senate Bill 1 of this 100th General Assembly becomes law."