



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5116

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g
105 ILCS 5/10-20.21

from Ch. 122, par. 2-3.25g

Amends the School Code. For school districts other than the Chicago school district (which already has similar provisions), provides that for a one-year period after the expiration of the term of a school board member or other termination of a school board member's service, (i) the former board member is not eligible for employment by the board, an attendance center, or any other subdivision or agent of the board or the school district governed by the board and (ii) the board and the chief purchasing officer may not let any contract for services, employment, or other work to the former board member or to any corporation, partnership, association, sole proprietorship, or other entity other than publicly traded companies from which the former board member receives an annual income, dividends, or other compensation in excess of \$1,500. Provides that a waiver from mandates of the Code may not be requested from the provision. Effective immediately.

LRB100 17375 AXK 32540 b

FISCAL NOTE ACT
MAY APPLY

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 Sections
5 2-3.25g and 10-20.21 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 "Implementation date" has the meaning set forth in
18 Section 24A-2.5 of this Code.

19 "State Board" means the State Board of Education.

20 (b) Notwithstanding any other provisions of this School
21 Code or any other law of this State to the contrary, eligible
22 applicants may petition the State Board of Education for the
23 waiver or modification of the mandates of this School Code or

1 of the administrative rules and regulations promulgated by the
2 State Board of Education. Waivers or modifications of
3 administrative rules and regulations and modifications of
4 mandates of this School Code may be requested when an eligible
5 applicant demonstrates that it can address the intent of the
6 rule or mandate in a more effective, efficient, or economical
7 manner or when necessary to stimulate innovation or improve
8 student performance. Waivers of mandates of the School Code may
9 be requested when the waivers are necessary to stimulate
10 innovation or improve student performance or when the applicant
11 demonstrates that it can address the intent of the mandate of
12 the School Code in a more effective, efficient, or economical
13 manner. Waivers may not be requested from laws, rules, and
14 regulations pertaining to special education, teacher educator
15 licensure, teacher tenure and seniority, or Section 5-2.1 of
16 this Code or from compliance with the Every Student Succeeds
17 Act (Public Law 114-95). A waiver may not be requested from
18 subsection (e) of Section 10-20.21 or Section 34-21.3 of this
19 Code with regard to employment of a former school board member.
20 Eligible applicants may not seek a waiver or seek a
21 modification of a mandate regarding the requirements for (i)
22 student performance data to be a significant factor in teacher
23 or principal evaluations or (ii) teachers and principals to be
24 rated using the 4 categories of "excellent", "proficient",
25 "needs improvement", or "unsatisfactory". On September 1,
26 2014, any previously authorized waiver or modification from

1 such requirements shall terminate.

2 (c) Eligible applicants, as a matter of inherent managerial
3 policy, and any Independent Authority established under
4 Section 2-3.25f-5 of this Code may submit an application for a
5 waiver or modification authorized under this Section. Each
6 application must include a written request by the eligible
7 applicant or Independent Authority and must demonstrate that
8 the intent of the mandate can be addressed in a more effective,
9 efficient, or economical manner or be based upon a specific
10 plan for improved student performance and school improvement.
11 Any eligible applicant requesting a waiver or modification for
12 the reason that intent of the mandate can be addressed in a
13 more economical manner shall include in the application a
14 fiscal analysis showing current expenditures on the mandate and
15 projected savings resulting from the waiver or modification.
16 Applications and plans developed by eligible applicants must be
17 approved by the board or regional superintendent of schools
18 applying on behalf of schools or programs operated by the
19 regional office of education following a public hearing on the
20 application and plan and the opportunity for the board or
21 regional superintendent to hear testimony from staff directly
22 involved in its implementation, parents, and students. The time
23 period for such testimony shall be separate from the time
24 period established by the eligible applicant for public comment
25 on other matters.

26 (c-5) If the applicant is a school district, then the

1 district shall post information that sets forth the time, date,
2 place, and general subject matter of the public hearing on its
3 Internet website at least 14 days prior to the hearing. If the
4 district is requesting to increase the fee charged for driver
5 education authorized pursuant to Section 27-24.2 of this Code,
6 the website information shall include the proposed amount of
7 the fee the district will request. All school districts must
8 publish a notice of the public hearing at least 7 days prior to
9 the hearing in a newspaper of general circulation within the
10 school district that sets forth the time, date, place, and
11 general subject matter of the hearing. Districts requesting to
12 increase the fee charged for driver education shall include in
13 the published notice the proposed amount of the fee the
14 district will request. If the applicant is a joint agreement or
15 regional superintendent, then the joint agreement or regional
16 superintendent shall post information that sets forth the time,
17 date, place, and general subject matter of the public hearing
18 on its Internet website at least 14 days prior to the hearing.
19 If the joint agreement or regional superintendent is requesting
20 to increase the fee charged for driver education authorized
21 pursuant to Section 27-24.2 of this Code, the website
22 information shall include the proposed amount of the fee the
23 applicant will request. All joint agreements and regional
24 superintendents must publish a notice of the public hearing at
25 least 7 days prior to the hearing in a newspaper of general
26 circulation in each school district that is a member of the

1 joint agreement or that is served by the educational service
2 region that sets forth the time, date, place, and general
3 subject matter of the hearing, provided that a notice appearing
4 in a newspaper generally circulated in more than one school
5 district shall be deemed to fulfill this requirement with
6 respect to all of the affected districts. Joint agreements or
7 regional superintendents requesting to increase the fee
8 charged for driver education shall include in the published
9 notice the proposed amount of the fee the applicant will
10 request. The eligible applicant must notify in writing the
11 affected exclusive collective bargaining agent and those State
12 legislators representing the eligible applicant's territory of
13 its intent to seek approval of a waiver or modification and of
14 the hearing to be held to take testimony from staff. The
15 affected exclusive collective bargaining agents shall be
16 notified of such public hearing at least 7 days prior to the
17 date of the hearing and shall be allowed to attend such public
18 hearing. The eligible applicant shall attest to compliance with
19 all of the notification and procedural requirements set forth
20 in this Section.

21 (d) A request for a waiver or modification of
22 administrative rules and regulations or for a modification of
23 mandates contained in this School Code shall be submitted to
24 the State Board of Education within 15 days after approval by
25 the board or regional superintendent of schools. The
26 application as submitted to the State Board of Education shall

1 include a description of the public hearing. Following receipt
2 of the waiver or modification request, the State Board shall
3 have 45 days to review the application and request. If the
4 State Board fails to disapprove the application within that 45
5 day period, the waiver or modification shall be deemed granted.
6 The State Board may disapprove any request if it is not based
7 upon sound educational practices, endangers the health or
8 safety of students or staff, compromises equal opportunities
9 for learning, or fails to demonstrate that the intent of the
10 rule or mandate can be addressed in a more effective,
11 efficient, or economical manner or have improved student
12 performance as a primary goal. Any request disapproved by the
13 State Board may be appealed to the General Assembly by the
14 eligible applicant as outlined in this Section.

15 A request for a waiver from mandates contained in this
16 School Code shall be submitted to the State Board within 15
17 days after approval by the board or regional superintendent of
18 schools. The application as submitted to the State Board of
19 Education shall include a description of the public hearing.
20 The description shall include, but need not be limited to, the
21 means of notice, the number of people in attendance, the number
22 of people who spoke as proponents or opponents of the waiver, a
23 brief description of their comments, and whether there were any
24 written statements submitted. The State Board shall review the
25 applications and requests for completeness and shall compile
26 the requests in reports to be filed with the General Assembly.

1 The State Board shall file reports outlining the waivers
2 requested by eligible applicants and appeals by eligible
3 applicants of requests disapproved by the State Board with the
4 Senate and the House of Representatives before each March 1 and
5 October 1.

6 The report shall be reviewed by a panel of 4 members
7 consisting of:

8 (1) the Speaker of the House of Representatives;

9 (2) the Minority Leader of the House of
10 Representatives;

11 (3) the President of the Senate; and

12 (4) the Minority Leader of the Senate.

13 The State Board of Education may provide the panel
14 recommendations on waiver requests. The members of the panel
15 shall review the report submitted by the State Board of
16 Education and submit to the State Board of Education any notice
17 of further consideration to any waiver request within 14 days
18 after the member receives the report. If 3 or more of the panel
19 members submit a notice of further consideration to any waiver
20 request contained within the report, the State Board of
21 Education shall submit the waiver request to the General
22 Assembly for consideration. If less than 3 panel members submit
23 a notice of further consideration to a waiver request, the
24 waiver may be approved, denied, or modified by the State Board.
25 If the State Board does not act on a waiver request within 10
26 days, then the waiver request is approved. If the waiver

1 request is denied by the State Board, it shall submit the
2 waiver request to the General Assembly for consideration.

3 The General Assembly may disapprove any waiver request
4 submitted to the General Assembly pursuant to this subsection
5 (d) in whole or in part within 60 calendar days after each
6 house of the General Assembly next convenes after the waiver
7 request is submitted by adoption of a resolution by a record
8 vote of the majority of members elected in each house. If the
9 General Assembly fails to disapprove any waiver request or
10 appealed request within such 60 day period, the waiver or
11 modification shall be deemed granted. Any resolution adopted by
12 the General Assembly disapproving a report of the State Board
13 in whole or in part shall be binding on the State Board.

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

24 (f) (Blank).

25 (Source: P.A. 99-78, eff. 7-20-15; 100-465, eff. 8-31-17.)

1 (105 ILCS 5/10-20.21)

2 Sec. 10-20.21. Contracts.

3 (a) To award all contracts for purchase of supplies and
4 materials or work involving an expenditure in excess of \$25,000
5 or a lower amount as required by board policy to the lowest
6 responsible bidder, considering conformity with
7 specifications, terms of delivery, quality and serviceability,
8 after due advertisement, except the following: (i) contracts
9 for the services of individuals possessing a high degree of
10 professional skill where the ability or fitness of the
11 individual plays an important part; (ii) contracts for the
12 printing of finance committee reports and departmental
13 reports; (iii) contracts for the printing or engraving of
14 bonds, tax warrants and other evidences of indebtedness; (iv)
15 contracts for the purchase of perishable foods and perishable
16 beverages; (v) contracts for materials and work which have been
17 awarded to the lowest responsible bidder after due
18 advertisement, but due to unforeseen revisions, not the fault
19 of the contractor for materials and work, must be revised
20 causing expenditures not in excess of 10% of the contract
21 price; (vi) contracts for the maintenance or servicing of, or
22 provision of repair parts for, equipment which are made with
23 the manufacturer or authorized service agent of that equipment
24 where the provision of parts, maintenance, or servicing can
25 best be performed by the manufacturer or authorized service
26 agent; (vii) purchases and contracts for the use, purchase,

1 delivery, movement, or installation of data processing
2 equipment, software, or services and telecommunications and
3 interconnect equipment, software, and services; (viii)
4 contracts for duplicating machines and supplies; (ix)
5 contracts for the purchase of natural gas when the cost is less
6 than that offered by a public utility; (x) purchases of
7 equipment previously owned by some entity other than the
8 district itself; (xi) contracts for repair, maintenance,
9 remodeling, renovation, or construction, or a single project
10 involving an expenditure not to exceed \$50,000 and not
11 involving a change or increase in the size, type, or extent of
12 an existing facility; (xii) contracts for goods or services
13 procured from another governmental agency; (xiii) contracts
14 for goods or services which are economically procurable from
15 only one source, such as for the purchase of magazines, books,
16 periodicals, pamphlets and reports, and for utility services
17 such as water, light, heat, telephone or telegraph; (xiv) where
18 funds are expended in an emergency and such emergency
19 expenditure is approved by 3/4 of the members of the board;
20 (xv) State master contracts authorized under Article 28A of
21 this Code; and (xvi) contracts providing for the transportation
22 of pupils, which contracts must be advertised in the same
23 manner as competitive bids and awarded by first considering the
24 bidder or bidders most able to provide safety and comfort for
25 the pupils, stability of service, and any other factors set
26 forth in the request for proposal regarding quality of service,

1 and then price. However, at no time shall a cause of action lie
2 against a school board for awarding a pupil transportation
3 contract per the standards set forth in this subsection (a)
4 unless the cause of action is based on fraudulent conduct.

5 All competitive bids for contracts involving an
6 expenditure in excess of \$25,000 or a lower amount as required
7 by board policy must be sealed by the bidder and must be opened
8 by a member or employee of the school board at a public bid
9 opening at which the contents of the bids must be announced.
10 Each bidder must receive at least 3 days' notice of the time
11 and place of the bid opening. For purposes of this Section due
12 advertisement includes, but is not limited to, at least one
13 public notice at least 10 days before the bid date in a
14 newspaper published in the district, or if no newspaper is
15 published in the district, in a newspaper of general
16 circulation in the area of the district. State master contracts
17 and certified education purchasing contracts, as defined in
18 Article 28A of this Code, are not subject to the requirements
19 of this paragraph.

20 Under this Section, the acceptance of bids sealed by a
21 bidder and the opening of these bids at a public bid opening
22 may be permitted by an electronic process for communicating,
23 accepting, and opening competitive bids. However, bids for
24 construction purposes are prohibited from being communicated,
25 accepted, or opened electronically. An electronic bidding
26 process must provide for, but is not limited to, the following

1 safeguards:

2 (1) On the date and time certain of a bid opening, the
3 primary person conducting the competitive, sealed,
4 electronic bid process shall log onto a specified database
5 using a unique username and password previously assigned to
6 the bidder to allow access to the bidder's specific bid
7 project number.

8 (2) The specified electronic database must be on a
9 network that (i) is in a secure environment behind a
10 firewall; (ii) has specific encryption tools; (iii)
11 maintains specific intrusion detection systems; (iv) has
12 redundant systems architecture with data storage back-up,
13 whether by compact disc or tape; and (v) maintains a
14 disaster recovery plan.

15 It is the legislative intent of Public Act 96-841 to maintain
16 the integrity of the sealed bidding process provided for in
17 this Section, to further limit any possibility of bid-rigging,
18 to reduce administrative costs to school districts, and to
19 effect efficiencies in communications with bidders.

20 (b) To require, as a condition of any contract for goods
21 and services, that persons bidding for and awarded a contract
22 and all affiliates of the person collect and remit Illinois Use
23 Tax on all sales of tangible personal property into the State
24 of Illinois in accordance with the provisions of the Illinois
25 Use Tax Act regardless of whether the person or affiliate is a
26 "retailer maintaining a place of business within this State" as

1 defined in Section 2 of the Use Tax Act. For purposes of this
2 Section, the term "affiliate" means any entity that (1)
3 directly, indirectly, or constructively controls another
4 entity, (2) is directly, indirectly, or constructively
5 controlled by another entity, or (3) is subject to the control
6 of a common entity. For purposes of this subsection (b), an
7 entity controls another entity if it owns, directly or
8 individually, more than 10% of the voting securities of that
9 entity. As used in this subsection (b), the term "voting
10 security" means a security that (1) confers upon the holder the
11 right to vote for the election of members of the board of
12 directors or similar governing body of the business or (2) is
13 convertible into, or entitles the holder to receive upon its
14 exercise, a security that confers such a right to vote. A
15 general partnership interest is a voting security.

16 To require that bids and contracts include a certification
17 by the bidder or contractor that the bidder or contractor is
18 not barred from bidding for or entering into a contract under
19 this Section and that the bidder or contractor acknowledges
20 that the school board may declare the contract void if the
21 certification completed pursuant to this subsection (b) is
22 false.

23 (b-5) To require all contracts and agreements that pertain
24 to goods and services and that are intended to generate
25 additional revenue and other remunerations for the school
26 district in excess of \$1,000, including without limitation

1 vending machine contracts, sports and other attire, class
2 rings, and photographic services, to be approved by the school
3 board. The school board shall file as an attachment to its
4 annual budget a report, in a form as determined by the State
5 Board of Education, indicating for the prior year the name of
6 the vendor, the product or service provided, and the actual net
7 revenue and non-monetary remuneration from each of the
8 contracts or agreements. In addition, the report shall indicate
9 for what purpose the revenue was used and how and to whom the
10 non-monetary remuneration was distributed.

11 (b-10) To prohibit any contract to purchase food with a
12 bidder or offeror if the bidder's or offeror's contract terms
13 prohibit the school from donating food to food banks,
14 including, but not limited to, homeless shelters, food
15 pantries, and soup kitchens.

16 (c) If the State education purchasing entity creates a
17 master contract as defined in Article 28A of this Code, then
18 the State education purchasing entity shall notify school
19 districts of the existence of the master contract.

20 (d) In purchasing supplies, materials, equipment, or
21 services that are not subject to subsection (c) of this
22 Section, before a school district solicits bids or awards a
23 contract, the district may review and consider as a bid under
24 subsection (a) of this Section certified education purchasing
25 contracts that are already available through the State
26 education purchasing entity.

1 (e) For a one-year period after the expiration of the term
2 of a school board member or other termination of a school board
3 member's service, (i) the former board member is not eligible
4 for employment by the board, an attendance center, or any other
5 subdivision or agent of the board or the school district
6 governed by the board and (ii) the board and the chief
7 purchasing officer may not let or delegate authority to let any
8 contract for services, employment, or other work to the former
9 board member or to any corporation, partnership, association,
10 sole proprietorship, or other entity other than publicly traded
11 companies from which the former board member receives an annual
12 income, dividends, or other compensation in excess of \$1,500.
13 Any contract that is entered into by or under a delegation of
14 authority from the board or the chief purchasing officer shall
15 contain a provision stating that the contract is not legally
16 binding on the board if entered into in violation of this
17 subsection (e).

18 (Source: P.A. 99-552, eff. 7-15-16.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.