



Rep. Sonya M. Harper

Filed: 4/5/2019

10100HB2234ham001

LRB101 08746 AXK 59287 a

1 AMENDMENT TO HOUSE BILL 2234

2 AMENDMENT NO. _____. Amend House Bill 2234 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Legislative findings. The General Assembly
5 finds all of the following:

6 (1) Every child in this State is entitled to a
7 comprehensive, equitable, and inclusive public education
8 and this entitlement must include physical education
9 programming that meets the recommendations from the
10 Centers for Disease Control and Prevention and other
11 research entities.

12 (2) Students who engage in daily, quality physical
13 education tend to have better grades, school attendance,
14 cognitive performance, and classroom behaviors.

15 (3) Physical education students who exercise at a
16 moderate to vigorous level (i) release dopamine that
17 improves focus, (ii) release serotonin that improves mood,

1 (iii) release norepinephrine that improves attention and
2 motivation, (iv) release brain-derived neurotrophic
3 factors and other hormones to help grow brain cells and
4 provide mental clarity, and (v) grow the hippocampus over
5 time with regular exercise.

6 (4) Physical education benefits students by (i)
7 increasing their level of physical activity and levels of
8 fitness, (ii) improving their grades and standardized test
9 scores, (iii) helping them stay on-task in the classroom,
10 and (iv) allowing them to practice and improve their social
11 and emotional learning skills in non-threatening and
12 authentic situations.

13 (5) Increasing time spent in physical education does
14 not negatively affect a student's academic achievement and
15 may even improve it.

16 Section 5. The School Code is amended by changing Sections
17 2-3.25g and 27-6 as follows:

18 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

19 Sec. 2-3.25g. Waiver or modification of mandates within the
20 School Code and administrative rules and regulations.

21 (a) In this Section:

22 "Board" means a school board or the governing board or
23 administrative district, as the case may be, for a joint
24 agreement.

1 "Eligible applicant" means a school district, joint
2 agreement made up of school districts, or regional
3 superintendent of schools on behalf of schools and programs
4 operated by the regional office of education.

5 "Implementation date" has the meaning set forth in
6 Section 24A-2.5 of this Code.

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

8 (b) Notwithstanding any other provisions of this School
9 Code or any other law of this State to the contrary, eligible
10 applicants may petition the State Board of Education for the
11 waiver or modification of the mandates of this School Code or
12 of the administrative rules and regulations promulgated by the
13 State Board of Education. Waivers or modifications of
14 administrative rules and regulations and modifications of
15 mandates of this School Code may be requested when an eligible
16 applicant demonstrates that it can address the intent of the
17 rule or mandate in a more effective, efficient, or economical
18 manner or when necessary to stimulate innovation or improve
19 student performance. Waivers of mandates of the School Code may
20 be requested when the waivers are necessary to stimulate
21 innovation or improve student performance or when the applicant
22 demonstrates that it can address the intent of the mandate of
23 the School Code in a more effective, efficient, or economical
24 manner. Waivers may not be requested from laws, rules, and
25 regulations pertaining to special education, teacher educator
26 licensure, teacher tenure and seniority, or Section 5-2.1 of

1 this Code or from compliance with the Every Student Succeeds
2 Act (Public Law 114-95). Eligible applicants may not seek a
3 waiver or seek a modification of a mandate regarding the
4 requirements for (i) student performance data to be a
5 significant factor in teacher or principal evaluations or (ii)
6 teachers and principals to be rated using the 4 categories of
7 "excellent", "proficient", "needs improvement", or
8 "unsatisfactory". On September 1, 2014, any previously
9 authorized waiver or modification from such requirements shall
10 terminate.

11 (c) Eligible applicants, as a matter of inherent managerial
12 policy, and any Independent Authority established under
13 Section 2-3.25f-5 of this Code may submit an application for a
14 waiver or modification authorized under this Section. Each
15 application must include a written request by the eligible
16 applicant or Independent Authority and must demonstrate that
17 the intent of the mandate can be addressed in a more effective,
18 efficient, or economical manner or be based upon a specific
19 plan for improved student performance and school improvement.
20 Any eligible applicant requesting a waiver or modification for
21 the reason that intent of the mandate can be addressed in a
22 more economical manner shall include in the application a
23 fiscal analysis showing current expenditures on the mandate and
24 projected savings resulting from the waiver or modification.
25 Applications and plans developed by eligible applicants must be
26 approved by the board or regional superintendent of schools

1 applying on behalf of schools or programs operated by the
2 regional office of education following a public hearing on the
3 application and plan and the opportunity for the board or
4 regional superintendent to hear testimony from staff directly
5 involved in its implementation, parents, and students. The time
6 period for such testimony shall be separate from the time
7 period established by the eligible applicant for public comment
8 on other matters.

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

1 on its Internet website at least 14 days prior to the hearing.
2 If the joint agreement or regional superintendent is requesting
3 to increase the fee charged for driver education authorized
4 pursuant to Section 27-24.2 of this Code, the website
5 information shall include the proposed amount of the fee the
6 applicant will request. All joint agreements and regional
7 superintendents must publish a notice of the public hearing at
8 least 7 days prior to the hearing in a newspaper of general
9 circulation in each school district that is a member of the
10 joint agreement or that is served by the educational service
11 region that sets forth the time, date, place, and general
12 subject matter of the hearing, provided that a notice appearing
13 in a newspaper generally circulated in more than one school
14 district shall be deemed to fulfill this requirement with
15 respect to all of the affected districts. Joint agreements or
16 regional superintendents requesting to increase the fee
17 charged for driver education shall include in the published
18 notice the proposed amount of the fee the applicant will
19 request. The eligible applicant must notify either
20 electronically or in writing the affected exclusive collective
21 bargaining agent and those State legislators representing the
22 eligible applicant's territory of its intent to seek approval
23 of a waiver or modification and of the hearing to be held to
24 take testimony from staff. The affected exclusive collective
25 bargaining agents shall be notified of such public hearing at
26 least 7 days prior to the date of the hearing and shall be

1 allowed to attend such public hearing. The eligible applicant
2 shall attest to compliance with all of the notification and
3 procedural requirements set forth in this Section.

4 (d) A request for a waiver or modification of
5 administrative rules and regulations or for a modification of
6 mandates contained in this School Code shall be submitted to
7 the State Board of Education within 15 days after approval by
8 the board or regional superintendent of schools. The
9 application as submitted to the State Board of Education shall
10 include a description of the public hearing. Following receipt
11 of the waiver or modification request, the State Board shall
12 have 45 days to review the application and request. If the
13 State Board fails to disapprove the application within that
14 45-day ~~45-day~~ period, the waiver or modification shall be
15 deemed granted. The State Board may disapprove any request if
16 it is not based upon sound educational practices, endangers the
17 health or safety of students or staff, compromises equal
18 opportunities for learning, or fails to demonstrate that the
19 intent of the rule or mandate can be addressed in a more
20 effective, efficient, or economical manner or have improved
21 student performance as a primary goal. Any request disapproved
22 by the State Board may be appealed to the General Assembly by
23 the eligible applicant as outlined in this Section.

24 A request for a waiver from mandates contained in this
25 School Code shall be submitted to the State Board within 15
26 days after approval by the board or regional superintendent of

1 schools. The application as submitted to the State Board of
2 Education shall include a description of the public hearing.
3 The description shall include, but need not be limited to, the
4 means of notice, the number of people in attendance, the number
5 of people who spoke as proponents or opponents of the waiver, a
6 brief description of their comments, and whether there were any
7 written statements submitted. The State Board shall review the
8 applications and requests for completeness and shall compile
9 the requests in reports to be filed with the General Assembly.
10 The State Board shall file reports outlining the waivers
11 requested by eligible applicants and appeals by eligible
12 applicants of requests disapproved by the State Board with the
13 Senate and the House of Representatives before each March 1 and
14 October 1.

15 The report shall be reviewed by a panel of 4 members
16 consisting of:

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

18 (2) the Minority Leader of the House of
19 Representatives;

20 (3) the President of the Senate; and

21 (4) the Minority Leader of the Senate.

22 The State Board of Education may provide the panel
23 recommendations on waiver requests. The members of the panel
24 shall review the report submitted by the State Board of
25 Education and submit to the State Board of Education any notice
26 of further consideration to any waiver request within 14 days

1 after the member receives the report. If 3 or more of the panel
2 members submit a notice of further consideration to any waiver
3 request contained within the report, the State Board of
4 Education shall submit the waiver request to the General
5 Assembly for consideration. If less than 3 panel members submit
6 a notice of further consideration to a waiver request, the
7 waiver may be approved, denied, or modified by the State Board.
8 If the State Board does not act on a waiver request within 10
9 days, then the waiver request is approved. If the waiver
10 request is denied by the State Board, it shall submit the
11 waiver request to the General Assembly for consideration.

12 The General Assembly may disapprove any waiver request
13 submitted to the General Assembly pursuant to this subsection
14 (d) in whole or in part within 60 calendar days after each
15 house of the General Assembly next convenes after the waiver
16 request is submitted by adoption of a resolution by a record
17 vote of the majority of members elected in each house. If the
18 General Assembly fails to disapprove any waiver request or
19 appealed request within such 60-day ~~60-day~~ period, the waiver
20 or modification shall be deemed granted. Any resolution adopted
21 by the General Assembly disapproving a report of the State
22 Board in whole or in part shall be binding on the State Board.

23 (e) Except for a waiver from or modification to a physical
24 education mandate, an ~~An~~ approved waiver or modification may
25 remain in effect for a period not to exceed 5 school years and
26 may be renewed upon application by the eligible applicant.

1 However, such waiver or modification may be changed within that
2 5-year period by a board or regional superintendent of schools
3 applying on behalf of schools or programs operated by the
4 regional office of education following the procedure as set
5 forth in this Section for the initial waiver or modification
6 request. If neither the State Board of Education nor the
7 General Assembly disapproves, the change is deemed granted.

8 An approved waiver from or modification to a physical
9 education mandate in an elementary school, middle school, or
10 junior high school may remain in effect for a period not to
11 exceed 2 school years and may be renewed no more than 2 times
12 upon application by the eligible applicant. If, during the time
13 of the waiver, the school district is placed on the financial
14 early warning or financial watch list by the State Board of
15 Education, the school district may continue the waiver until it
16 has been removed from that list for a minimum of one year. An
17 approved waiver from or modification to a physical education
18 mandate may be changed within the 2-year period by the board or
19 regional superintendent of schools, whichever is applicable,
20 following the procedure set forth in this Section for the
21 initial waiver or modification request. If neither the State
22 Board of Education nor the General Assembly disapproves, the
23 change is deemed granted.

24 (f) (Blank).

25 (Source: P.A. 99-78, eff. 7-20-15; 100-465, eff. 8-31-17;
26 100-782, eff. 1-1-19; revised 10-1-18.)

1 (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

2 Sec. 27-6. Courses in physical education required; special
3 activities.

4 (a) Pupils enrolled in the public schools and State
5 universities engaged in preparing teachers shall be required to
6 engage ~~during the school day, except on block scheduled days~~
7 ~~for those public schools engaged in block scheduling,~~ in
8 courses of physical education for such periods as are
9 compatible with the optimum growth and developmental needs of
10 individuals at the various age levels except when appropriate
11 excuses are submitted to the school by a pupil's parent or
12 guardian or by a person licensed under the Medical Practice Act
13 of 1987 and except as provided in subsection (b) of this
14 Section. A school board may determine the schedule or frequency
15 of physical education courses, provided that an elementary
16 school pupil shall engage in a course of physical education for
17 a minimum of 150 minutes per week, a middle school or junior
18 high school pupil shall engage in a course of physical
19 education for a minimum of 225 minutes per week, and a high
20 school pupil shall engage ~~engages~~ in a course of physical
21 education for a minimum of 3 days per 5-day week. However, if a
22 student non-attendance day is scheduled for a day that would
23 otherwise include a physical education class or if the school
24 building is not otherwise open to students on a day that would
25 otherwise include a physical education class, a student is not

1 required to make up the minutes from that class. In this
2 subsection, "student non-attendance day" means a day in which
3 no students are present or engaged in learning, as defined by
4 the school district.

5 Special activities in physical education shall be provided
6 for pupils whose physical or emotional condition, as determined
7 by a person licensed under the Medical Practice Act of 1987,
8 prevents their participation in the courses provided for normal
9 children.

10 (b) A school board is authorized to excuse pupils enrolled
11 in grades 11 and 12 from engaging in physical education courses
12 if those pupils request to be excused for any of the following
13 reasons: (1) for ongoing participation in an interscholastic
14 athletic program; (2) to enroll in academic classes which are
15 required for admission to an institution of higher learning,
16 provided that failure to take such classes will result in the
17 pupil being denied admission to the institution of his or her
18 choice; or (3) to enroll in academic classes which are required
19 for graduation from high school, provided that failure to take
20 such classes will result in the pupil being unable to graduate.
21 A school board may also excuse pupils in grades 9 through 12
22 enrolled in a marching band program for credit from engaging in
23 physical education courses if those pupils request to be
24 excused for ongoing participation in such marching band
25 program. A school board may also, on a case-by-case basis,
26 excuse pupils in grades 7 through 12 who participate in an

1 interscholastic or extracurricular athletic program from
2 engaging in physical education courses. In addition, a pupil in
3 any of grades 3 through 12 who is eligible for special
4 education may be excused if the pupil's parent or guardian
5 agrees that the pupil must utilize the time set aside for
6 physical education to receive special education support and
7 services or, if there is no agreement, the individualized
8 education program team for the pupil determines that the pupil
9 must utilize the time set aside for physical education to
10 receive special education support and services, which
11 agreement or determination must be made a part of the
12 individualized education program. However, a pupil requiring
13 adapted physical education must receive that service in
14 accordance with the individualized education program developed
15 for the pupil. If requested, a school board is authorized to
16 excuse a pupil from engaging in a physical education course if
17 the pupil has an individualized educational program under
18 Article 14 of this Code, is participating in an adaptive
19 athletic program outside of the school setting, and documents
20 such participation as determined by the school board. A school
21 board may also excuse pupils in grades 9 through 12 enrolled in
22 a Reserve Officer's Training Corps (ROTC) program sponsored by
23 the school district from engaging in physical education
24 courses. School boards which choose to exercise this authority
25 shall establish a policy to excuse pupils on an individual
26 basis.

1 (c) The provisions of this Section are subject to the
2 provisions of Section 27-22.05.

3 (Source: P.A. 100-465, eff. 8-31-17.)

4 Section 99. Effective date. This Act takes effect July 1,
5 2020."