



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4397

Introduced 02/03/04, by Mary E. Flowers

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Provides that waivers may not be granted from laws, rules, and regulations pertaining to physical education.

LRB093 19368 NHT 45106 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 Notwithstanding any other provisions of this School Code or any
10 other law of this State to the contrary, school districts may
11 petition the State Board of Education for the waiver or
12 modification of the mandates of this School Code or of the
13 administrative rules and regulations promulgated by the State
14 Board of Education. Waivers or modifications of administrative
15 rules and regulations and modifications of mandates of this
16 School Code may be requested when a school district
17 demonstrates that it can address the intent of the rule or
18 mandate in a more effective, efficient, or economical manner or
19 when necessary to stimulate innovation or improve student
20 performance. Waivers of mandates of the School Code may be
21 requested when the waivers are necessary to stimulate
22 innovation or improve student performance. Waivers may not be
23 requested from laws, rules, and regulations pertaining to
24 physical education, special education, teacher certification,
25 or teacher tenure and seniority or from compliance with the No
26 Child Left Behind Act of 2001 (Public Law 107-110).

27 School districts, as a matter of inherent managerial
28 policy, and any Independent Authority established under
29 Section 2-3.25f may submit an application for a waiver or
30 modification authorized under this Section. Each application
31 must include a written request by the school district or
32 Independent Authority and must demonstrate that the intent of

1 the mandate can be addressed in a more effective, efficient, or
2 economical manner or be based upon a specific plan for improved
3 student performance and school improvement. Any district
4 requesting a waiver or modification for the reason that intent
5 of the mandate can be addressed in a more economical manner
6 shall include in the application a fiscal analysis showing
7 current expenditures on the mandate and projected savings
8 resulting from the waiver or modification. Applications and
9 plans developed by school districts must be approved by each
10 board of education following a public hearing on the
11 application and plan and the opportunity for the board to hear
12 testimony from educators directly involved in its
13 implementation, parents, and students. Such public hearing
14 shall be held on a day other than the day on which a regular
15 meeting of the board is held. The public hearing must be
16 preceded by at least one published notice occurring at least 7
17 days prior to the hearing in a newspaper of general circulation
18 within the school district that sets forth the time, date,
19 place, and general subject matter of the hearing. The school
20 district must notify in writing the affected exclusive
21 collective bargaining agent and those State legislators
22 representing the district holding the public hearing of the
23 district's intent to seek approval of a waiver or modification
24 and of the hearing to be held to take testimony from educators.
25 The affected exclusive collective bargaining agents shall be
26 notified of such public hearing at least 7 days prior to the
27 date of the hearing and shall be allowed to attend such public
28 hearing. The district shall attest to compliance with all of
29 the notification and procedural requirements set forth in this
30 Section.

31 A request for a waiver or modification of administrative
32 rules and regulations or for a modification of mandates
33 contained in this School Code shall be submitted to the State
34 Board of Education within 15 days after approval by the board
35 of education. The application as submitted to the State Board
36 of Education shall include a description of the public hearing.

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

14 A request for a waiver from mandates contained in this
15 School Code shall be submitted to the State Board within 15
16 days after approval by the board of education. The application
17 as submitted to the State Board of Education shall include a
18 description of the public hearing. The description shall
19 include, but need not be limited to, the means of notice, the
20 number of people in attendance, the number of people who spoke
21 as proponents or opponents of the waiver, a brief description
22 of their comments, and whether there were any written
23 statements submitted. The State Board shall review the
24 applications and requests for completeness and shall compile
25 the requests in reports to be filed with the General Assembly.
26 The State Board shall file reports outlining the waivers
27 requested by school districts and appeals by school districts
28 of requests disapproved by the State Board with the Senate and
29 the House of Representatives before each May 1 and October 1.
30 The General Assembly may disapprove the report of the State
31 Board in whole or in part within 30 calendar days after each
32 house of the General Assembly next convenes after the report is
33 filed by adoption of a resolution by a record vote of the
34 majority of members elected in each house. If the General
35 Assembly fails to disapprove any waiver request or appealed
36 request within such 30 day period, the waiver or modification

1 shall be deemed granted. Any resolution adopted by the General
2 Assembly disapproving a report of the State Board in whole or
3 in part shall be binding on the State Board.

4 An approved waiver or modification may remain in effect for
5 a period not to exceed 5 school years and may be renewed upon
6 application by the school district. However, such waiver or
7 modification may be changed within that 5-year period by a
8 local school district board following the procedure as set
9 forth in this Section for the initial waiver or modification
10 request. If neither the State Board of Education nor the
11 General Assembly disapproves, the change is deemed granted.

12 On or before February 1, 1998, and each year thereafter,
13 the State Board of Education shall submit a cumulative report
14 summarizing all types of waiver mandates and modifications of
15 mandates granted by the State Board or the General Assembly.
16 The report shall identify the topic of the waiver along with
17 the number and percentage of school districts for which the
18 waiver has been granted. The report shall also include any
19 recommendations from the State Board regarding the repeal or
20 modification of waived mandates.

21 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
22 revised 9-11-03.)