



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0376

Introduced 1/21/2005, by Rep. Renee Kosel

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. In provisions concerning the waiver or modification of mandates within the School Code and rules, provides that an application for a waiver from or modification to a physical education mandate must be made by the particular school involved, not by the school district or joint agreement. Provides that a waiver from or modification to a physical education mandate may not be requested if the school district has received, within the last 10 years, a grant under the School Construction Law to build a new building or to upgrade an existing physical education facility, unless the school district is seeking the waiver or modification to operate under a block schedule. Instead of allowing the General Assembly to disapprove a waiver from or modification to a physical education mandate, provides that if the State Board of Education's mandate waiver report contains a request for a waiver from or modification to a physical education mandate, then the General Assembly must approve the request by adoption of a joint resolution pertaining only to that particular request, otherwise the waiver shall be deemed disapproved. Effective immediately.

LRB094 06638 RAS 36732 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 (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, a school with regard
15 to a waiver from or modification to a physical education
16 mandate, or regional superintendent of schools on behalf of
17 schools and programs operated by the regional office of
18 education.

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
24 of the administrative rules and regulations promulgated by the
25 State Board of Education. An application for a waiver from or
26 modification to a physical education mandate must be made by
27 the particular school involved, not by the school district or
28 joint agreement. Waivers or modifications of administrative
29 rules and regulations and modifications of mandates of this
30 School Code may be requested when an eligible applicant
31 demonstrates that it can address the intent of the rule or
32 mandate in a more effective, efficient, or economical manner or

1 when necessary to stimulate innovation or improve student
2 performance. Waivers of mandates of the School Code may be
3 requested when the waivers are necessary to stimulate
4 innovation or improve student performance. Waivers may not be
5 requested from laws, rules, and regulations pertaining to
6 special education, teacher certification, or teacher tenure
7 and seniority or from compliance with the No Child Left Behind
8 Act of 2001 (Public Law 107-110). A waiver from or modification
9 to a physical education mandate may not be requested if the
10 school district has received, within the last 10 years, a grant
11 under the School Construction Law to build a new building or to
12 upgrade an existing physical education facility, unless the
13 district is seeking the waiver or modification to operate under
14 a block schedule.

15 (c) Eligible applicants, as a matter of inherent managerial
16 policy, and any Independent Authority established under
17 Section 2-3.25f may submit an application for a waiver or
18 modification authorized under this Section. Each application
19 must include a written request by the eligible applicant or
20 Independent Authority and must demonstrate that the intent of
21 the mandate can be addressed in a more effective, efficient, or
22 economical manner or be based upon a specific plan for improved
23 student performance and school improvement. Any eligible
24 applicant requesting a waiver or modification for the reason
25 that intent of the mandate can be addressed in a more
26 economical manner shall include in the application a fiscal
27 analysis showing current expenditures on the mandate and
28 projected savings resulting from the waiver or modification.
29 Applications and plans developed by eligible applicants must be
30 approved by the board or regional superintendent of schools
31 applying on behalf of schools or programs operated by the
32 regional office of education following a public hearing on the
33 application and plan and the opportunity for the board or
34 regional superintendent to hear testimony from educators
35 directly involved in its implementation, parents, and
36 students. If the applicant is a school district or joint

1 agreement, the public hearing shall be held on a day other than
2 the day on which a regular meeting of the board is held. If the
3 applicant is a school district, the public hearing must be
4 preceded by at least one published notice occurring at least 7
5 days prior to the hearing in a newspaper of general circulation
6 within the school district that sets forth the time, date,
7 place, and general subject matter of the hearing. If the
8 applicant is a joint agreement or regional superintendent, the
9 public hearing must be preceded by at least one published
10 notice (setting forth the time, date, place, and general
11 subject matter of the hearing) occurring at least 7 days prior
12 to the hearing in a newspaper of general circulation in each
13 school district that is a member of the joint agreement or that
14 is served by the educational service region, provided that a
15 notice appearing in a newspaper generally circulated in more
16 than one school district shall be deemed to fulfill this
17 requirement with respect to all of the affected districts. The
18 eligible applicant must notify in writing the affected
19 exclusive collective bargaining agent and those State
20 legislators representing the eligible applicant's territory of
21 its intent to seek approval of a waiver or modification and of
22 the hearing to be held to take testimony from educators. The
23 affected exclusive collective bargaining agents shall be
24 notified of such public hearing at least 7 days prior to the
25 date of the hearing and shall be allowed to attend such public
26 hearing. The eligible applicant shall attest to compliance with
27 all of the notification and procedural requirements set forth
28 in this Section.

29 (d) A request for a waiver or modification of
30 administrative rules and regulations or for a modification of
31 mandates contained in this School Code shall be submitted to
32 the State Board of Education within 15 days after approval by
33 the board or regional superintendent of schools. The
34 application as submitted to the State Board of Education shall
35 include a description of the public hearing. Following receipt
36 of the request, the State Board shall have 45 days to review

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

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

1 disapprove any waiver request or appealed request within such
2 30 day period, the waiver or modification shall be deemed
3 granted. Except for waivers from or modifications to physical
4 education mandates, any ~~Any~~ resolution adopted by the General
5 Assembly disapproving a report of the State Board in whole or
6 in part shall be binding on the State Board. If the report of
7 the State Board contains a request or appealed request for a
8 waiver from or modification to a physical education mandate,
9 then the General Assembly must approve the request within 30
10 calendar days after each house of the General Assembly next
11 convenes after the report is filed by adoption of a joint
12 resolution pertaining only to that particular request, by a
13 record vote of the majority of members elected in each house.
14 With respect to waivers from or modifications to physical
15 education mandates, if the General Assembly fails to approve a
16 request or appealed request within the 30-day period, the
17 waiver or modification shall be deemed disapproved, which shall
18 be binding on the State Board.

19 (e) An approved waiver or modification may remain in effect
20 for a period not to exceed 5 school years and may be renewed
21 upon application by the eligible applicant. However, such
22 waiver or modification may be changed within that 5-year period
23 by a board or regional superintendent of schools applying on
24 behalf of schools or programs operated by the regional office
25 of education following the procedure as set forth in this
26 Section for the initial waiver or modification request. Except
27 for waivers from or modifications to physical education
28 mandates, if ~~if~~ neither the State Board of Education nor the
29 General Assembly disapproves, the change is deemed granted.

30 (f) On or before February 1, 1998, and each year
31 thereafter, the State Board of Education shall submit a
32 cumulative report summarizing all types of waivers of mandates
33 and modifications of mandates granted by the State Board or the
34 General Assembly. The report shall identify the topic of the
35 waiver along with the number and percentage of eligible
36 applicants for which the waiver has been granted. The report

1 shall also include any recommendations from the State Board
2 regarding the repeal or modification of waived mandates.

3 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
4 93-707, eff. 7-9-04.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.