



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0412

Introduced 1/26/2005, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

105 ILCS 5/2-3.25m

Amends the School Code. In provisions regarding the waiver or modification of mandates within the School Code and rules, provides that any request disapproved by the State Board of Education may be appealed through an appeals advisory committee, which makes recommendations for action to the State Superintendent of Education (now, an applicant may appeal to the General Assembly). Removes provisions that allow the General Assembly to disapprove requests. Effective immediately.

LRB094 05665 NHT 35714 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 Sections
5 2-3.25g and 2-3.25m 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 "State Board" means the State Board of Education.

18 (b) Notwithstanding any other provisions of this School
19 Code or any other law of this State to the contrary, eligible
20 applicants may petition the State Board of Education for the
21 waiver or modification of the mandates of this School Code or
22 of the administrative rules and regulations promulgated by the
23 State Board of Education. Waivers or modifications of
24 administrative rules and regulations and modifications of
25 mandates of this School Code may be requested when an eligible
26 applicant demonstrates that it can address the intent of the
27 rule or mandate in a more effective, efficient, or economical
28 manner or when necessary to stimulate innovation or improve
29 student performance. Waivers of mandates of the School Code may
30 be requested when the waivers are necessary to stimulate
31 innovation or improve student performance. Waivers may not be
32 requested from laws, rules, and regulations pertaining to

1 special education, teacher certification, or teacher tenure
2 and seniority or from compliance with the No Child Left Behind
3 Act of 2001 (Public Law 107-110).

4 (c) Eligible applicants, as a matter of inherent managerial
5 policy, and any Independent Authority established under
6 Section 2-3.25f may submit an application for a waiver or
7 modification authorized under this Section. Each application
8 must include a written request by the eligible applicant or
9 Independent Authority and must demonstrate that the intent of
10 the mandate can be addressed in a more effective, efficient, or
11 economical manner or be based upon a specific plan for improved
12 student performance and school improvement. Any eligible
13 applicant requesting a waiver or modification for the reason
14 that intent of the mandate can be addressed in a more
15 economical manner shall include in the application a fiscal
16 analysis showing current expenditures on the mandate and
17 projected savings resulting from the waiver or modification.
18 Applications and plans developed by eligible applicants must be
19 approved by the board or regional superintendent of schools
20 applying on behalf of schools or programs operated by the
21 regional office of education following a public hearing on the
22 application and plan and the opportunity for the board or
23 regional superintendent to hear testimony from educators
24 directly involved in its implementation, parents, and
25 students. If the applicant is a school district or joint
26 agreement, the public hearing shall be held on a day other than
27 the day on which a regular meeting of the board is held. If the
28 applicant is a school district, the public hearing must be
29 preceded by at least one published notice occurring at least 7
30 days prior to the hearing in a newspaper of general circulation
31 within the school district that sets forth the time, date,
32 place, and general subject matter of the hearing. If the
33 applicant is a joint agreement or regional superintendent, the
34 public hearing must be preceded by at least one published
35 notice (setting forth the time, date, place, and general
36 subject matter of the hearing) occurring at least 7 days prior

1 to the hearing in a newspaper of general circulation in each
2 school district that is a member of the joint agreement or that
3 is served by the educational service region, provided that a
4 notice appearing in a newspaper generally circulated in more
5 than one school district shall be deemed to fulfill this
6 requirement with respect to all of the affected districts. The
7 eligible applicant must notify in writing the affected
8 exclusive collective bargaining agent and those State
9 legislators representing the eligible applicant's territory of
10 its intent to seek approval of a waiver or modification and of
11 the hearing to be held to take testimony from educators. The
12 affected exclusive collective bargaining agents shall be
13 notified of such public hearing at least 7 days prior to the
14 date of the hearing and shall be allowed to attend such public
15 hearing. The eligible applicant shall attest to compliance with
16 all of the notification and procedural requirements set forth
17 in this Section.

18 (d) A request for a waiver or modification of
19 administrative rules and regulations or for a modification of
20 mandates contained in this School Code shall be submitted to
21 the State Board of Education within 15 days after approval by
22 the board or regional superintendent of schools. The
23 application as submitted to the State Board of Education shall
24 include a description of the public hearing. Following receipt
25 of the request, the State Board shall have 45 days to review
26 the application and request. If the State Board fails to
27 disapprove the application within that 45 day period, the
28 waiver or modification shall be deemed granted. The State Board
29 may disapprove any request if it is not based upon sound
30 educational practices, endangers the health or safety of
31 students or staff, compromises equal opportunities for
32 learning, or fails to demonstrate that the intent of the rule
33 or mandate can be addressed in a more effective, efficient, or
34 economical manner or have improved student performance as a
35 primary goal. Any request disapproved by the State Board may be
36 appealed ~~to the General Assembly~~ by the eligible applicant as

1 outlined in ~~this~~ Section 2-3.25m.

2 A request for a waiver from mandates contained in this
3 School Code shall be submitted to the State Board within 15
4 days after approval by the board or regional superintendent of
5 schools. The application as submitted to the State Board of
6 Education shall include a description of the public hearing.
7 The description shall include, but need not be limited to, the
8 means of notice, the number of people in attendance, the number
9 of people who spoke as proponents or opponents of the waiver, a
10 brief description of their comments, and whether there were any
11 written statements submitted. The State Board shall review the
12 applications and requests for completeness and shall compile
13 the requests in reports to be filed with the General Assembly.
14 The State Board shall file reports outlining the waivers
15 requested by eligible applicants and appeals by eligible
16 applicants of requests disapproved by the State Board with the
17 Senate and the House of Representatives before each May 1 and
18 October 1. ~~The General Assembly may disapprove the report of
19 the State Board in whole or in part within 30 calendar days
20 after each house of the General Assembly next convenes after
21 the report is filed by adoption of a resolution by a record
22 vote of the majority of members elected in each house. If the
23 General Assembly fails to disapprove any waiver request or
24 appealed request within such 30 day period, the waiver or
25 modification shall be deemed granted. Any resolution adopted by
26 the General Assembly disapproving a report of the State Board
27 in whole or in part shall be binding on the State Board.~~

28 (e) An approved waiver or modification may remain in effect
29 for a period not to exceed 5 school years and may be renewed
30 upon application by the eligible applicant. However, such
31 waiver or modification may be changed within that 5-year period
32 by a board or regional superintendent of schools applying on
33 behalf of schools or programs operated by the regional office
34 of education following the procedure as set forth in this
35 Section for the initial waiver or modification request. If
36 ~~neither~~ the State Board of Education does not disapprove the

1 change ~~nor the General Assembly disapproves~~, the change is
2 deemed granted.

3 (f) On or before February 1, 1998, and each year
4 thereafter, the State Board of Education shall submit a
5 cumulative report summarizing all types of waivers of mandates
6 and modifications of mandates granted by the State Board or the
7 General Assembly. The report shall identify the topic of the
8 waiver along with the number and percentage of eligible
9 applicants for which the waiver has been granted. The report
10 shall also include any recommendations from the State Board
11 regarding the repeal or modification of waived mandates.

12 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
13 93-707, eff. 7-9-04.)

14 (105 ILCS 5/2-3.25m)

15 Sec. 2-3.25m. Appeals. The appeals process outlined in this
16 Section applies to all appeals from school districts pertaining
17 to school or district status levels, recognition levels, ~~or~~
18 corrective action, or mandate waivers and modifications. The
19 State Board of Education shall provide notice and an
20 opportunity for hearing to the affected school district. The
21 hearing shall take place not later than 30 calendar days
22 following receipt of the written appeal. The appeals advisory
23 committee created as specified in this Section may extend the
24 hearing under special circumstances, in consultation with the
25 State Superintendent of Education. The State Board of Education
26 may take into account exceptional or uncontrollable
27 circumstances.

28 The State Board of Education shall process school and
29 district appeals through an appeals advisory committee. The
30 committee shall be composed of 9 members appointed by the State
31 Superintendent of Education as follows:

32 (1) One representative of each of 2 professional
33 teachers' organizations.

34 (2) Two school administrators employed in the public
35 schools of this State who have been nominated by an

1 administrator organization.

2 (3) One member of an organization that represents
3 school principals.

4 (4) One member of an organization that represents both
5 parents and teachers.

6 (5) One representative of the business community of
7 this State who has been nominated by a statewide business
8 organization.

9 (6) One representative of City of Chicago School
10 District 299.

11 (7) One member of the public.

12 Five members of the committee shall serve for terms of 2 years,
13 and 4 members shall serve for terms of 3 years. The State
14 Superintendent of Education shall appoint initial members on or
15 before July 1, 2003. The committee shall annually elect one
16 member as chairperson.

17 The committee shall hear appeals and, within 30 calendar
18 days after a hearing, make recommendations for action to the
19 State Superintendent of Education. The committee shall
20 recommend action to the State Superintendent of Education on
21 all appeals. The State Board of Education shall make all final
22 determinations.

23 (Source: P.A. 93-470, eff. 8-8-03.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.