



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB4037**

Introduced 02/28/05, by Rep. Lee A. Daniels

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Higher Education Mandate Waiver Act. Allows an institution of higher education to petition the Board of Higher Education for the waiver or modification of mandates contained in State law or administrative rules adopted by the Board of Higher Education if certain conditions are met. Provides for a hearing on the petition, petition requirements, an approval process, and General Assembly input. Provides that if a petition is approved, the waiver or modification is valid for up to 10 years and may be renewed.

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FISCAL NOTE ACT  
MAY APPLY

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 1. Short title. This Act may be cited as the Higher  
5 Education Mandate Waiver Act.

6 Section 5. Definitions. In this Act:

7 "Board" means the Board of Higher Education.

8 "Institution" means an institution of higher education  
9 located in this State.

10 Section 10. Authority to waive or modify mandates.  
11 Notwithstanding any other law of this State to the contrary, an  
12 institution of higher education may petition the Board of  
13 Higher Education for the waiver or modification of mandates  
14 contained in State law or administrative rules adopted by the  
15 Board of Higher Education if all of the following conditions  
16 are met:

17 (1) The waiver or modification proves to be more  
18 efficient, effective, or economical than current practice.

19 (2) The waiver or modification stimulates innovation  
20 or improves student performance.

21 (3) The waiver or modification helps better fulfill the  
22 mission of the institution.

23 (4) The waiver or modification serves a public benefit  
24 to the State or any community surrounding the institution.

25 (5) The waiver or modification does not pertain to any  
26 of the following:

27 (A) Submission and approval of a budget and capital  
28 budget.

29 (B) Minimum academic standards for students.

30 (C) Programs that ensure increased minority  
31 enrollment.

1 (D) Tuition waivers, as specified by Board.

2 (E) Faculty tenure or compliance with State or  
3 federal employment laws or rules.

4 (F) Compliance with the College Student  
5 Immunization Act or the Fire Sprinkler Dormitory Act.

6 Section 15. Hearing on petition. Before submitting a  
7 petition to waive or modify a mandate to the Board, a public  
8 hearing must be held by the institution. At least 7 days prior  
9 to the hearing, the institution must do all of the following:

10 (1) Publish notice of the hearing, with the type of  
11 media to be determined by the Board.

12 (2) Notify all faculty and staff of the institution of  
13 the hearing.

14 (3) Notify all labor organization representatives  
15 associated with the institution of the hearing.

16 (4) Notify those State legislators representing all or  
17 a part of the institution's territory of the hearing.

18 Section 20. Petition process. The governing body of the  
19 institution must approve a petition to waive or modify a  
20 mandate before the petition is submitted to the Board. Within  
21 15 days after the governing body has approved the petition, the  
22 petition must be submitted to the Board. The petition must be  
23 in a form approved by the Board and must include all of the  
24 following:

25 (1) The law or rule sought to be waived or modified.

26 (2) The reason for seeking the waiver or modification.

27 (3) If economic in nature, a financial analysis  
28 detailing current expenditures and possible savings as a  
29 result of the waiver or modification.

30 (4) A description of the hearing described in Section  
31 15 of this Act, including without limitation minutes taken  
32 (if possible), the means of notice, the number of people in  
33 attendance, the number of people who spoke as proponents or  
34 opponents of the waiver or modification, a brief

1 description of those people's comments, and whether there  
2 were any written statements submitted.

3 Section 25. Petition approval process. The Board has 45  
4 days to review the petition after it has been submitted. If the  
5 Board does not approve or disapprove the petition within 45  
6 days, the petition shall be deemed approved. The Board may  
7 disapprove any petition if (i) it is not based upon sound  
8 educational practices, (ii) it endangers the health or safety  
9 of students or staff, (iii) it compromises equal opportunities  
10 for learning, or (iv) it fails to demonstrate that the intent  
11 of the mandate can be addressed in a more effective, efficient,  
12 or economical manner or it fails to have improved student  
13 performance as a primary goal. Any petition disapproved by  
14 Board may be appealed to the General Assembly as provided under  
15 Section 30 of this Act.

16 Section 30. General Assembly input.

17 (a) An appeal of the Board's decision to disapprove a  
18 petition to waive or modify a mandate shall be submitted by the  
19 Board on behalf of the institution to the General Assembly no  
20 later than 30 days after the Board has disapproved the  
21 petition. The General Assembly shall consider the appeal and  
22 make a decision on whether to approve the petition by adoption  
23 of a joint resolution by a record vote of the majority of the  
24 members elected in each house within 60 days after each house  
25 of the General Assembly next convenes after the appeal is  
26 submitted. If requested by the institution appealing, the  
27 Board, or the General Assembly itself, a special joint higher  
28 education committee may be established, which shall include the  
29 members of the higher education committees of both houses. The  
30 joint committee shall review the appeal, hear any witnesses,  
31 and, by a majority vote, recommend a decision to the General  
32 Assembly as a whole for final consideration. If the General  
33 Assembly does not adopt a joint resolution within the 60-day  
34 period, the petition shall be deemed disapproved.

1           (b) Within 30 days after the approval of a petition to  
2 waive or modify a mandate under Section 25 of this Act, the  
3 Board shall file a copy of the petition with the General  
4 Assembly. Within 60 days after each house of the General  
5 Assembly next convenes after the petition is filed, the General  
6 Assembly shall review the petition and make a decision on  
7 whether to approve the petition by adoption of a joint  
8 resolution by a record vote of the majority of the members  
9 elected in each house. If the General Assembly does not adopt a  
10 joint resolution within the 60-day period, the petition shall  
11 be deemed approved.

12           Section 35. Duration of waiver or modification. If a  
13 petition to waive or modify a mandate is approved, the waiver  
14 or modification is valid for up to 10 years and may be renewed  
15 by following the same procedures as for an initial petition  
16 under this Act.

17           Section 40. Rules. The Board may adopt any rules necessary  
18 to implement and administer this Act.