



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5370

Introduced 01/26/06, by Rep. Calvin L. Giles

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code to make changes concerning the waiver or modification of mandates within the School Code and rules. Provides that the General Assembly must act upon (now, may disapprove) the State Board of Education report outlining requests for mandate waivers within 60 days after each house of the General Assembly next convenes after the report is filed. Provides that if the General Assembly fails to act upon (now, disapprove) any waiver request within the 60-day time period, the waiver shall be deemed disapproved (now, granted). Beginning with the report filed by the State Board before March 1, 2007 and for each report filed by the State Board in each odd-numbered year thereafter, requires that the resolution be introduced in the House of Representatives. Beginning with the report filed by the State Board before March 1, 2008 and for each report filed by the State Board in each even-numbered year thereafter, requires that the resolution be introduced in the Senate. Effective immediately.

LRB094 19389 MKM 55057 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, 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, teacher tenure and
2 seniority, or Section 5-2.1 of this Code or from compliance
3 with the No Child Left Behind 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 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 March 1 and
18 October 1. The General Assembly must act upon, in whole or in
19 part, may disapprove the report of the State Board ~~in whole or~~
20 ~~in part~~ within 60 calendar days after each house of the General
21 Assembly next convenes after the report is filed by adoption of
22 a resolution by a record vote of the majority of members
23 elected in each house. If the General Assembly fails to act
24 upon disapprove any waiver request or appealed request within
25 such 60 day period, the waiver or modification shall be deemed
26 disapproved. Beginning with the report filed by the State Board
27 before March 1, 2007 and for each report filed by the State
28 Board in each odd-numbered year thereafter, the resolution must
29 be introduced in the House of Representatives. Beginning with
30 the report filed by the State Board before March 1, 2008 and
31 for each report filed by the State Board in each even-numbered
32 year thereafter, the resolution must be introduced in the
33 Senate granted. Any resolution adopted by the General Assembly
34 disapproving a report of the State Board in whole or in part
35 shall be binding on the State Board.

36 (e) An approved waiver or modification may remain in effect

1 for a period not to exceed 5 school years and may be renewed
2 upon application by the eligible applicant. However, such
3 waiver or modification may be changed within that 5-year period
4 by a board or regional superintendent of schools applying on
5 behalf of schools or programs operated by the regional office
6 of education following the procedure as set forth in this
7 Section for the initial waiver or modification request. If
8 neither the State Board of Education nor the General Assembly
9 disapproves, the change is deemed granted.

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

19 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
20 93-707, eff. 7-9-04; 94-198, eff. 1-1-06; 94-432, eff. 8-2-05;
21 revised 8-19-05.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.