

HB1568



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1568

Introduced 2/15/2011, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Provides that mandate waivers may not be requested from laws and rules pertaining to physical education. Effective immediately.

LRB097 10171 NHT 50360 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 "Implementation date" has the meaning set forth in
18 Section 24A-2.5 of this Code.

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

1 of the administrative rules and regulations promulgated by the
2 State Board of Education. Waivers or modifications of
3 administrative rules and regulations and modifications of
4 mandates of this School Code may be requested when an eligible
5 applicant demonstrates that it can address the intent of the
6 rule or mandate in a more effective, efficient, or economical
7 manner or when necessary to stimulate innovation or improve
8 student performance. Waivers of mandates of the School Code may
9 be requested when the waivers are necessary to stimulate
10 innovation or improve student performance. Waivers may not be
11 requested from laws, rules, and regulations pertaining to
12 special education, physical education, teacher certification,
13 teacher tenure and seniority, or Section 5-2.1 of this Code or
14 from compliance with the No Child Left Behind Act of 2001
15 (Public Law 107-110). On and after the applicable
16 implementation date, eligible applicants may not seek a waiver
17 or seek a modification of a mandate regarding the requirements
18 for (i) student performance data to be a significant factor in
19 teacher or principal evaluations or (ii) for teachers and
20 principals to be rated using the 4 categories of "excellent",
21 "proficient", "needs improvement", or "unsatisfactory". On the
22 applicable implementation date, any previously authorized
23 waiver or modification from such requirements shall terminate.

24 (c) Eligible applicants, as a matter of inherent managerial
25 policy, and any Independent Authority established under
26 Section 2-3.25f may submit an application for a waiver or

1 modification authorized under this Section. Each application
2 must include a written request by the eligible applicant or
3 Independent Authority and must demonstrate that the intent of
4 the mandate can be addressed in a more effective, efficient, or
5 economical manner or be based upon a specific plan for improved
6 student performance and school improvement. Any eligible
7 applicant requesting a waiver or modification for the reason
8 that intent of the mandate can be addressed in a more
9 economical manner shall include in the application a fiscal
10 analysis showing current expenditures on the mandate and
11 projected savings resulting from the waiver or modification.
12 Applications and plans developed by eligible applicants must be
13 approved by the board or regional superintendent of schools
14 applying on behalf of schools or programs operated by the
15 regional office of education following a public hearing on the
16 application and plan and the opportunity for the board or
17 regional superintendent to hear testimony from staff directly
18 involved in its implementation, parents, and students. The time
19 period for such testimony shall be separate from the time
20 period established by the eligible applicant for public comment
21 on other matters. If the applicant is a school district or
22 joint agreement requesting a waiver or modification of Section
23 27-6 of this Code, the public hearing shall be held on a day
24 other than the day on which a regular meeting of the board is
25 held. If the applicant is a school district, the public hearing
26 must be preceded by at least one published notice occurring at

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

25 (d) A request for a waiver or modification of
26 administrative rules and regulations or for a modification of

1 mandates contained in this School Code shall be submitted to
2 the State Board of Education within 15 days after approval by
3 the board or regional superintendent of schools. The
4 application as submitted to the State Board of Education shall
5 include a description of the public hearing. Following receipt
6 of the request, the State Board shall have 45 days to review
7 the application and request. If the State Board fails to
8 disapprove the application within that 45 day period, the
9 waiver or modification shall be deemed granted. The State Board
10 may disapprove any request if it is not based upon sound
11 educational practices, endangers the health or safety of
12 students or staff, compromises equal opportunities for
13 learning, or fails to demonstrate that the intent of the rule
14 or mandate can be addressed in a more effective, efficient, or
15 economical manner or have improved student performance as a
16 primary goal. Any request disapproved by the State Board may be
17 appealed to the General Assembly by the eligible applicant as
18 outlined in this Section.

19 A request for a waiver from mandates contained in this
20 School Code shall be submitted to the State Board within 15
21 days after approval by the board or regional superintendent of
22 schools. The application as submitted to the State Board of
23 Education shall include a description of the public hearing.
24 The description shall include, but need not be limited to, the
25 means of notice, the number of people in attendance, the number
26 of people who spoke as proponents or opponents of the waiver, a

1 brief description of their comments, and whether there were any
2 written statements submitted. The State Board shall review the
3 applications and requests for completeness and shall compile
4 the requests in reports to be filed with the General Assembly.
5 The State Board shall file reports outlining the waivers
6 requested by eligible applicants and appeals by eligible
7 applicants of requests disapproved by the State Board with the
8 Senate and the House of Representatives before each March 1 and
9 October 1. The General Assembly may disapprove the report of
10 the State Board in whole or in part within 60 calendar days
11 after each house of the General Assembly next convenes after
12 the report is filed by adoption of a resolution by a record
13 vote of the majority of members elected in each house. If the
14 General Assembly fails to disapprove any waiver request or
15 appealed request within such 60 day period, the waiver or
16 modification shall be deemed granted. Any resolution adopted by
17 the General Assembly disapproving a report of the State Board
18 in whole or in part shall be binding on the State Board.

19 (e) An approved waiver or modification ~~(except a waiver~~
20 ~~from or modification to a physical education mandate)~~ may
21 remain in effect for a period not to exceed 5 school years and
22 may be renewed upon application by the eligible applicant.
23 However, such waiver or modification may be changed within that
24 5-year period by a board or regional superintendent of schools
25 applying on behalf of schools or programs operated by the
26 regional office of education following the procedure as set

1 forth in this Section for the initial waiver or modification
2 request. If neither the State Board of Education nor the
3 General Assembly disapproves, the change is deemed granted.

4 ~~An approved waiver from or modification to a physical~~
5 ~~education mandate may remain in effect for a period not to~~
6 ~~exceed 2 school years and may be renewed no more than 2 times~~
7 ~~upon application by the eligible applicant. An approved waiver~~
8 ~~from or modification to a physical education mandate may be~~
9 ~~changed within the 2 year period by the board or regional~~
10 ~~superintendent of schools, whichever is applicable, following~~
11 ~~the procedure set forth in this Section for the initial waiver~~
12 ~~or modification request. If neither the State Board of~~
13 ~~Education nor the General Assembly disapproves, the change is~~
14 ~~deemed granted.~~

15 (f) (Blank).

16 (Source: P.A. 95-223, eff. 1-1-08; 96-861, eff. 1-15-10;
17 96-1423, eff. 8-3-10.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.