

# HB1861



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1861

by Rep. Tom Cross

### SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Makes a technical change in a Section concerning waivers of School Code mandates.

LRB098 06172 NHT 36213 b

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 ~~the~~ governing board  
11 or 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, teacher certification, teacher tenure and  
13 seniority, or Section 5-2.1 of this Code or from compliance  
14 with the No Child Left Behind Act of 2001 (Public Law 107-110).  
15 On and after the applicable implementation date, eligible  
16 applicants may not seek a waiver or seek a modification of a  
17 mandate regarding the requirements for (i) student performance  
18 data to be a significant factor in teacher or principal  
19 evaluations or (ii) for teachers and principals to be rated  
20 using the 4 categories of "excellent", "proficient", "needs  
21 improvement", or "unsatisfactory". On the applicable  
22 implementation date, any previously authorized waiver or  
23 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.

26 (c-5) If the applicant is a school district, then the

1 district shall post information that sets forth the time, date,  
2 place, and general subject matter of the public hearing on its  
3 Internet website at least 14 days prior to the hearing. If the  
4 district is requesting to increase the fee charged for driver  
5 education authorized pursuant to Section 27-24.2 of this Code,  
6 the website information shall include the proposed amount of  
7 the fee the district will request. All school districts must  
8 publish a notice of the public hearing at least 7 days prior to  
9 the hearing in a newspaper of general circulation within the  
10 school district that sets forth the time, date, place, and  
11 general subject matter of the hearing. Districts requesting to  
12 increase the fee charged for driver education shall include in  
13 the published notice the proposed amount of the fee the  
14 district will request. If the applicant is a joint agreement or  
15 regional superintendent, then the joint agreement or regional  
16 superintendent shall post information that sets forth the time,  
17 date, place, and general subject matter of the public hearing  
18 on its Internet website at least 14 days prior to the hearing.  
19 If the joint agreement or regional superintendent is requesting  
20 to increase the fee charged for driver education authorized  
21 pursuant to Section 27-24.2 of this Code, the website  
22 information shall include the proposed amount of the fee the  
23 applicant will request. All joint agreements and regional  
24 superintendents must publish a notice of the public hearing at  
25 least 7 days prior to the hearing in a newspaper of general  
26 circulation in each school district that is a member of the

1 joint agreement or that is served by the educational service  
2 region that sets forth the time, date, place, and general  
3 subject matter of the hearing, provided that a notice appearing  
4 in a newspaper generally circulated in more than one school  
5 district shall be deemed to fulfill this requirement with  
6 respect to all of the affected districts. Joint agreements or  
7 regional superintendents requesting to increase the fee  
8 charged for driver education shall include in the published  
9 notice the proposed amount of the fee the applicant will  
10 request. The eligible applicant must notify in writing the  
11 affected exclusive collective bargaining agent and those State  
12 legislators representing the eligible applicant's territory of  
13 its intent to seek approval of a waiver or modification and of  
14 the hearing to be held to take testimony from staff. The  
15 affected exclusive collective bargaining agents shall be  
16 notified of such public hearing at least 7 days prior to the  
17 date of the hearing and shall be allowed to attend such public  
18 hearing. The eligible applicant shall attest to compliance with  
19 all of the notification and procedural requirements set forth  
20 in this Section.

21 (d) A request for a waiver or modification of  
22 administrative rules and regulations or for a modification of  
23 mandates contained in this School Code shall be submitted to  
24 the State Board of Education within 15 days after approval by  
25 the board or regional superintendent of schools. The  
26 application as submitted to the State Board of Education shall

1 include a description of the public hearing. Except with  
2 respect to contracting for adaptive driver education, an  
3 eligible applicant wishing to request a modification or waiver  
4 of administrative rules of the State Board of Education  
5 regarding contracting with a commercial driver training school  
6 to provide the course of study authorized under Section 27-24.2  
7 of this Code must provide evidence with its application that  
8 the commercial driver training school with which it will  
9 contract holds a license issued by the Secretary of State under  
10 Article IV of Chapter 6 of the Illinois Vehicle Code and that  
11 each instructor employed by the commercial driver training  
12 school to provide instruction to students served by the school  
13 district holds a valid teaching certificate or teaching  
14 license, as applicable, issued under the requirements of this  
15 Code and rules of the State Board of Education. Such evidence  
16 must include, but need not be limited to, a list of each  
17 instructor assigned to teach students served by the school  
18 district, which list shall include the instructor's name,  
19 personal identification number as required by the State Board  
20 of Education, birth date, and driver's license number. If the  
21 modification or waiver is granted, then the eligible applicant  
22 shall notify the State Board of Education of any changes in the  
23 personnel providing instruction within 15 calendar days after  
24 an instructor leaves the program or a new instructor is hired.  
25 Such notification shall include the instructor's name,  
26 personal identification number as required by the State Board

1 of Education, birth date, and driver's license number. If a  
2 school district maintains an Internet website, then the  
3 district shall post a copy of the final contract between the  
4 district and the commercial driver training school on the  
5 district's Internet website. If no Internet website exists,  
6 then the district shall make available the contract upon  
7 request. A record of all materials in relation to the  
8 application for contracting must be maintained by the school  
9 district and made available to parents and guardians upon  
10 request. The instructor's date of birth and driver's license  
11 number and any other personally identifying information as  
12 deemed by the federal Driver's Privacy Protection Act of 1994  
13 must be redacted from any public materials. Following receipt  
14 of the waiver or modification request, the State Board shall  
15 have 45 days to review the application and request. If the  
16 State Board fails to disapprove the application within that 45  
17 day period, the waiver or modification shall be deemed granted.  
18 The State Board may disapprove any request if it is not based  
19 upon sound educational practices, endangers the health or  
20 safety of students or staff, compromises equal opportunities  
21 for learning, or fails to demonstrate that the intent of the  
22 rule or mandate can be addressed in a more effective,  
23 efficient, or economical manner or have improved student  
24 performance as a primary goal. Any request disapproved by the  
25 State Board may be appealed to the General Assembly by the  
26 eligible applicant as outlined in this Section.



1           A request for a waiver from mandates contained in this  
2 School Code shall be submitted to the State Board within 15  
3 days after approval by the board or regional superintendent of  
4 schools. The application as submitted to the State Board of  
5 Education shall include a description of the public hearing.  
6 The description shall include, but need not be limited to, the  
7 means of notice, the number of people in attendance, the number  
8 of people who spoke as proponents or opponents of the waiver, a  
9 brief description of their comments, and whether there were any  
10 written statements submitted. The State Board shall review the  
11 applications and requests for completeness and shall compile  
12 the requests in reports to be filed with the General Assembly.  
13 The State Board shall file reports outlining the waivers  
14 requested by eligible applicants and appeals by eligible  
15 applicants of requests disapproved by the State Board with the  
16 Senate and the House of Representatives before each March 1 and  
17 October 1. The General Assembly may disapprove the report of  
18 the State Board in whole or in part within 60 calendar days  
19 after each house of the General Assembly next convenes after  
20 the report is filed by adoption of a resolution by a record  
21 vote of the majority of members elected in each house. If the  
22 General Assembly fails to disapprove any waiver request or  
23 appealed request within such 60 day period, the waiver or  
24 modification shall be deemed granted. Any resolution adopted by  
25 the General Assembly disapproving a report of the State Board  
26 in whole or in part shall be binding on the State Board.

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

12 An approved waiver from or modification to a physical  
13 education mandate may remain in effect for a period not to  
14 exceed 2 school years and may be renewed no more than 2 times  
15 upon application by the eligible applicant. An approved waiver  
16 from or modification to a physical education mandate may be  
17 changed within the 2-year period by the board or regional  
18 superintendent of schools, whichever is applicable, following  
19 the procedure set forth in this Section for the initial waiver  
20 or modification request. If neither the State Board of  
21 Education nor the General Assembly disapproves, the change is  
22 deemed granted.

23 (f) (Blank).

24 (Source: P.A. 96-861, eff. 1-15-10; 96-1423, eff. 8-3-10;  
25 97-1025, eff. 1-1-13.)