

# HB5241



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

**HB5241**

by Rep. Michael J. Madigan

### 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.

LRB099 17358 NHT 41716 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 educator licensure, teacher tenure  
13 and 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 Eligible applicants may not seek a waiver or seek a  
16 modification of a mandate regarding the requirements for (i)  
17 student performance data to be a significant factor in teacher  
18 or principal evaluations or (ii) teachers and principals to be  
19 rated using the 4 categories of "excellent", "proficient",  
20 "needs improvement", or "unsatisfactory". On September 1,  
21 2014, any previously authorized waiver or modification from  
22 such requirements shall terminate.

23 (c) Eligible applicants, as a matter of inherent managerial  
24 policy, and any Independent Authority established under  
25 Section 2-3.25f-5 of this Code may submit an application for a  
26 waiver or modification authorized under this Section. Each

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

25 (c-5) If the applicant is a school district, then the  
26 district shall post information that sets forth the time, date,

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

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

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

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

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

26 A request for a waiver from mandates contained in this



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

26 (e) An approved waiver or modification (except a waiver

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

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

22 (f) (Blank).

23 (Source: P.A. 98-513, eff. 1-1-14; 98-739, eff. 7-16-14;  
24 98-1155, eff. 1-9-15; 99-78, eff. 7-20-15.)