

# HB1657



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1657

Introduced 2/18/2009, by Rep. Michael J. Madigan - Barbara Flynn Currie - Michael K. Smith

#### 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.

LRB096 05235 NHT 15301 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 "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

1 administrative rules and regulations and modifications of  
2 mandates of this School Code may be requested when an eligible  
3 applicant demonstrates that it can address the intent of the  
4 rule or mandate in a more effective, efficient, or economical  
5 manner or when necessary to stimulate innovation or improve  
6 student performance. Waivers of mandates of the School Code may  
7 be requested when the waivers are necessary to stimulate  
8 innovation or improve student performance. Waivers may not be  
9 requested from laws, rules, and regulations pertaining to  
10 special education, teacher certification, teacher tenure and  
11 seniority, or Section 5-2.1 of this Code or from compliance  
12 with the No Child Left Behind Act of 2001 (Public Law 107-110).

13 (c) Eligible applicants, as a matter of inherent managerial  
14 policy, and any Independent Authority established under  
15 Section 2-3.25f may submit an application for a waiver or  
16 modification authorized under this Section. Each application  
17 must include a written request by the eligible applicant or  
18 Independent Authority and must demonstrate that the intent of  
19 the mandate can be addressed in a more effective, efficient, or  
20 economical manner or be based upon a specific plan for improved  
21 student performance and school improvement. Any eligible  
22 applicant requesting a waiver or modification for the reason  
23 that intent of the mandate can be addressed in a more  
24 economical manner shall include in the application a fiscal  
25 analysis showing current expenditures on the mandate and  
26 projected savings resulting from the waiver or modification.

1 Applications and plans developed by eligible applicants must be  
2 approved by the board or regional superintendent of schools  
3 applying on behalf of schools or programs operated by the  
4 regional office of education following a public hearing on the  
5 application and plan and the opportunity for the board or  
6 regional superintendent to hear testimony from staff directly  
7 involved in its implementation, parents, and students. The time  
8 period for such testimony shall be separate from the time  
9 period established by the eligible applicant for public comment  
10 on other matters. If the applicant is a school district or  
11 joint agreement requesting a waiver or modification of Section  
12 27-6 of this Code, the public hearing shall be held on a day  
13 other than the day on which a regular meeting of the board is  
14 held. If the applicant is a school district, the public hearing  
15 must be preceded by at least one published notice occurring at  
16 least 7 days prior to the hearing in a newspaper of general  
17 circulation within the school district that sets forth the  
18 time, date, place, and general subject matter of the hearing.  
19 If the applicant is a joint agreement or regional  
20 superintendent, the public hearing must be preceded by at least  
21 one published notice (setting forth the time, date, place, and  
22 general subject matter of the hearing) occurring at least 7  
23 days prior to the hearing in a newspaper of general circulation  
24 in each school district that is a member of the joint agreement  
25 or that is served by the educational service region, provided  
26 that a notice appearing in a newspaper generally circulated in

1 more than one school district shall be deemed to fulfill this  
2 requirement with respect to all of the affected districts. The  
3 eligible applicant must notify in writing the affected  
4 exclusive collective bargaining agent and those State  
5 legislators representing the eligible applicant's territory of  
6 its intent to seek approval of a waiver or modification and of  
7 the hearing to be held to take testimony from staff. The  
8 affected exclusive collective bargaining agents shall be  
9 notified of such public hearing at least 7 days prior to the  
10 date of the hearing and shall be allowed to attend such public  
11 hearing. The eligible applicant shall attest to compliance with  
12 all of the notification and procedural requirements set forth  
13 in this Section.

14 (d) A request for a waiver or modification of  
15 administrative rules and regulations or for a modification of  
16 mandates contained in this School Code shall be submitted to  
17 the State Board of Education within 15 days after approval by  
18 the board or regional superintendent of schools. The  
19 application as submitted to the State Board of Education shall  
20 include a description of the public hearing. Following receipt  
21 of the request, the State Board shall have 45 days to review  
22 the application and request. If the State Board fails to  
23 disapprove the application within that 45 day period, the  
24 waiver or modification shall be deemed granted. The State Board  
25 may disapprove any request if it is not based upon sound  
26 educational practices, endangers the health or safety of

1 students or staff, compromises equal opportunities for  
2 learning, or fails to demonstrate that the intent of the rule  
3 or mandate can be addressed in a more effective, efficient, or  
4 economical manner or have improved student performance as a  
5 primary goal. Any request disapproved by the State Board may be  
6 appealed to the General Assembly by the eligible applicant as  
7 outlined in this Section.

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

1 the report is filed by adoption of a resolution by a record  
2 vote of the majority of members elected in each house. If the  
3 General Assembly fails to disapprove any waiver request or  
4 appealed request within such 60 day period, the waiver or  
5 modification shall be deemed granted. Any resolution adopted by  
6 the General Assembly disapproving a report of the State Board  
7 in whole or in part shall be binding on the State Board.

8 (e) An approved waiver or modification (except a waiver  
9 from or modification to a physical education mandate) may  
10 remain in effect for a period not to exceed 5 school years and  
11 may be renewed upon application by the eligible applicant.  
12 However, such waiver or modification may be changed within that  
13 5-year period by a board or regional superintendent of schools  
14 applying on behalf of schools or programs operated by the  
15 regional office of education following the procedure as set  
16 forth in this Section for the initial waiver or modification  
17 request. If neither the State Board of Education nor the  
18 General Assembly disapproves, the change is deemed granted.

19 An approved waiver from or modification to a physical  
20 education mandate may remain in effect for a period not to  
21 exceed 2 school years and may be renewed no more than 2 times  
22 upon application by the eligible applicant. An approved waiver  
23 from or modification to a physical education mandate may be  
24 changed within the 2-year period by the board or regional  
25 superintendent of schools, whichever is applicable, following  
26 the procedure set forth in this Section for the initial waiver

1 or modification request. If neither the State Board of  
2 Education nor the General Assembly disapproves, the change is  
3 deemed granted.

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

13 (Source: P.A. 94-198, eff. 1-1-06; 94-432, eff. 8-2-05; 94-875,  
14 eff. 7-1-06; 95-223, eff. 1-1-08.)