



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5136

Introduced 1/29/2010, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g
105 ILCS 5/2-3.25m

from Ch. 122, par. 2-3.25g

Amends the School Code. In provisions regarding the waiver or modification of mandates within the School Code and rules, provides that any request disapproved by the State Board of Education may be appealed through an appeals advisory committee, which makes recommendations for action to the State Superintendent of Education (now, an applicant may appeal to the General Assembly). Removes provisions that allow the General Assembly to disapprove requests. Effective immediately.

LRB096 18054 MJR 33428 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 Sections
5 2-3.25g and 2-3.25m 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, 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. 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 2-3.25m.

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 does not
3 approve the change ~~nor the General Assembly disapproves~~, the
4 change is deemed granted.

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

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

25 (Source: P.A. 95-223, eff. 1-1-08; 96-861, eff. 1-15-10.)

1 (105 ILCS 5/2-3.25m)

2 Sec. 2-3.25m. Appeals. The appeals process outlined in this
3 Section applies to all appeals from school districts pertaining
4 to school or district status levels, recognition levels, ~~or~~
5 corrective action, or mandate waivers and modifications. The
6 State Board of Education shall provide notice and an
7 opportunity for hearing to the affected school district. The
8 hearing shall take place not later than 30 calendar days
9 following receipt of the written appeal. The appeals advisory
10 committee created as specified in this Section may extend the
11 hearing under special circumstances, in consultation with the
12 State Superintendent of Education. The State Board of Education
13 may take into account exceptional or uncontrollable
14 circumstances.

15 The State Board of Education shall process school and
16 district appeals through an appeals advisory committee. The
17 committee shall be composed of 9 members appointed by the State
18 Superintendent of Education as follows:

19 (1) One representative of each of 2 professional
20 teachers' organizations.

21 (2) Two school administrators employed in the public
22 schools of this State who have been nominated by an
23 administrator organization.

24 (3) One member of an organization that represents
25 school principals.

26 (4) One member of an organization that represents both

1 parents and teachers.

2 (5) One representative of the business community of
3 this State who has been nominated by a statewide business
4 organization.

5 (6) One representative of City of Chicago School
6 District 299.

7 (7) One member of the public.

8 Five members of the committee shall serve for terms of 2 years,
9 and 4 members shall serve for terms of 3 years. The State
10 Superintendent of Education shall appoint initial members on or
11 before July 1, 2003. The committee shall annually elect one
12 member as chairperson.

13 The committee shall hear appeals and, within 30 calendar
14 days after a hearing, make recommendations for action to the
15 State Superintendent of Education. The committee shall
16 recommend action to the State Superintendent of Education on
17 all appeals. The State Board of Education shall make all final
18 determinations.

19 (Source: P.A. 93-470, eff. 8-8-03.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.