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09400SB1493ham001

LRB094 11113 RAS 46778 a

1 AMENDMENT TO SENATE BILL 1493

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1493 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections  
5 2-3.25g and 5-2.1 and by adding Section 5-1b 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 "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  
24 administrative rules and regulations and modifications of

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

12 (c) Eligible applicants, as a matter of inherent managerial  
13 policy, and any Independent Authority established under  
14 Section 2-3.25f may submit an application for a waiver or  
15 modification authorized under this Section. Each application  
16 must include a written request by the eligible applicant or  
17 Independent Authority and must demonstrate that the intent of  
18 the mandate can be addressed in a more effective, efficient, or  
19 economical manner or be based upon a specific plan for improved  
20 student performance and school improvement. Any eligible  
21 applicant requesting a waiver or modification for the reason  
22 that intent of the mandate can be addressed in a more  
23 economical manner shall include in the application a fiscal  
24 analysis showing current expenditures on the mandate and  
25 projected savings resulting from the waiver or modification.  
26 Applications and plans developed by eligible applicants must be  
27 approved by the board or regional superintendent of schools  
28 applying on behalf of schools or programs operated by the  
29 regional office of education following a public hearing on the  
30 application and plan and the opportunity for the board or  
31 regional superintendent to hear testimony from educators  
32 directly involved in its implementation, parents, and  
33 students. If the applicant is a school district or joint  
34 agreement, the public hearing shall be held on a day other than

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

28 (d) A request for a waiver or modification of  
29 administrative rules and regulations or for a modification of  
30 mandates contained in this School Code shall be submitted to  
31 the State Board of Education within 15 days after approval by  
32 the board or regional superintendent of schools. The  
33 application as submitted to the State Board of Education shall  
34 include a description of the public hearing. Following receipt

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

14 A request for a waiver from mandates contained in this  
15 School Code shall be submitted to the State Board within 15  
16 days after approval by the board or regional superintendent of  
17 schools. The application as submitted to the State Board of  
18 Education shall include a description of the public hearing.  
19 The description shall include, but need not be limited to, the  
20 means of notice, the number of people in attendance, the number  
21 of people who spoke as proponents or opponents of the waiver, a  
22 brief description of their comments, and whether there were any  
23 written statements submitted. The State Board shall review the  
24 applications and requests for completeness and shall compile  
25 the requests in reports to be filed with the General Assembly.  
26 The State Board shall file reports outlining the waivers  
27 requested by eligible applicants and appeals by eligible  
28 applicants of requests disapproved by the State Board with the  
29 Senate and the House of Representatives before each May 1 and  
30 October 1. The General Assembly may disapprove the report of  
31 the State Board in whole or in part within 30 calendar days  
32 after each house of the General Assembly next convenes after  
33 the report is filed by adoption of a resolution by a record  
34 vote of the majority of members elected in each house. If the

1 General Assembly fails to disapprove any waiver request or  
2 appealed request within such 30 day period, the waiver or  
3 modification shall be deemed granted. Any resolution adopted by  
4 the General Assembly disapproving a report of the State Board  
5 in whole or in part shall be binding on the State Board.

6 (e) An approved waiver or modification may remain in effect  
7 for a period not to exceed 5 school years and may be renewed  
8 upon application by the eligible applicant. However, such  
9 waiver or modification may be changed within that 5-year period  
10 by a board or regional superintendent of schools applying on  
11 behalf of schools or programs operated by the regional office  
12 of education following the procedure as set forth in this  
13 Section for the initial waiver or modification request. If  
14 neither the State Board of Education nor the General Assembly  
15 disapproves, the change is 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. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;  
26 93-707, eff. 7-9-04.)

27 (105 ILCS 5/5-1b new)

28 Sec. 5-1b. Elementary school district withdrawal and  
29 transfer.

30 (a) Notwithstanding any other provision of this Code, the  
31 school board of an elementary school district that is located  
32 in a Class II county school unit and that, with another  
33 elementary school district, has a combined fall 2004 aggregate

1 enrollment of at least 5,000 but less than 7,000 pupils and a  
2 combined boundary that is coterminous with the boundary of a  
3 high school district that crosses township boundaries and is  
4 subject to the jurisdiction and served by a different township  
5 treasurer and trustees of schools may withdraw from the  
6 jurisdiction and authority of the township treasurer and the  
7 trustees of schools that currently serve the elementary school  
8 district and transfer and otherwise submit to the jurisdiction  
9 and authority of the township treasurer and the trustees of  
10 schools of another township that then serves the high school  
11 district if all of the following conditions are met:

12 (1) During the same 30-day period, the school board of  
13 the elementary school district that is seeking withdrawal  
14 and transfer gives written notice by certified mail, return  
15 receipt requested, to all of the following: (i) the  
16 township treasurer and trustees of schools of the township  
17 from which the district seeks to withdraw; (ii) the  
18 township treasurer and trustees of schools of the township  
19 to which the district seeks to transfer; (iii) each school  
20 district currently subject to the jurisdiction and  
21 authority of the township treasurer and trustees of schools  
22 of the township from which the elementary school district  
23 is seeking to withdraw; and (iv) each school district  
24 currently subject to the jurisdiction and authority of the  
25 township treasurer and trustees of schools of the township  
26 in which the elementary school district is seeking to  
27 transfer. This notice must set forth the date, time, and  
28 place of a meeting of the school board of the elementary  
29 school district that is seeking withdrawal and transfer, to  
30 be held not more than 90 days before and not less than 60  
31 days after the date on which the notice is given, at which  
32 meeting the school board shall consider and vote upon a  
33 resolution to withdraw from the jurisdiction and authority  
34 of the township treasurer and the trustees of schools that

1 currently serve the elementary school district and  
2 transfer and otherwise submit to the jurisdiction and  
3 authority of the township treasurer and the trustees of  
4 schools of another township that then serves the high  
5 school district. No notice given under this subdivision (1)  
6 to the township treasurer and trustees of schools of a  
7 township shall be deemed sufficient or in compliance with  
8 the requirements of this subdivision (1) unless each  
9 required notice is given within the same 30-day period.

10 (2) The school board of the elementary school district  
11 that is seeking withdrawal and transfer, by the affirmative  
12 vote of at least 5 members of the school board at a school  
13 board meeting for which notice has been given as required  
14 by subdivision (1) of this subsection (a), adopts the  
15 resolution.

16 (3) The question of whether to withdraw from the  
17 jurisdiction and authority of the township treasurer and  
18 the trustees of schools that currently serve the elementary  
19 school district and transfer and otherwise submit to the  
20 jurisdiction and authority of the township treasurer and  
21 the trustees of schools of another township that then  
22 serves the high school district is submitted to the  
23 electors of the elementary school district at a regular  
24 election and approved by a majority of the electors voting  
25 on the question. After the resolution has been adopted, the  
26 school board shall certify the question to the proper  
27 election authority, which must submit the question at an  
28 election in accordance with the Election Code. The election  
29 authority must submit the question in substantially the  
30 following form:

31 Shall the school board of School District Number  
32 .... be authorized to withdraw from the jurisdiction  
33 and authority of the township treasurer and the  
34 trustees of schools of .... Township and transfer and

1           otherwise submit to the jurisdiction and authority of  
2           the township treasurer and the trustees of schools of  
3           .... Township?

4           The election authority shall record the votes as "Yes" or  
5           "No". If a majority of the electors voting on the question  
6           vote in the affirmative, then the school board of the  
7           elementary school district may withdraw from the  
8           jurisdiction and authority of the township treasurer and  
9           the trustees of schools that currently serve the elementary  
10           school district and transfer and otherwise submit to the  
11           jurisdiction and authority of the township treasurer and  
12           the trustees of schools of another township that then  
13           serves the high school district.

14           (b) If all of the conditions under subsection (a) of this  
15           Section have been met, then the withdrawal and transfer shall  
16           be effective by operation of law on July 1 of the calendar year  
17           in which the election under subdivision (3) of subsection (a)  
18           of this Section was held.

19           (c) Upon the effective date of the transfer of jurisdiction  
20           of the township treasurer and trustees of schools to the  
21           receiving township under this Section, all of the following  
22           shall occur: (i) the receiving trustees of schools, in its  
23           corporate capacity, shall be deemed the successor in interest  
24           to the trustees of schools of the transferring township with  
25           respect to the interest attributable to the school district's  
26           common school lands and township loanable funds of the  
27           township; (ii) all right, title, and interest attributable to  
28           the school district existing or vested in the transferring  
29           trustees of schools in the common school lands and township  
30           loanable funds of the township and all records, moneys,  
31           securities, other assets, rights of property, and causes of  
32           action attributable to the school district pertaining to or  
33           constituting a part of those common school lands or township  
34           loanable funds attributable to the school district shall be



1 transferred to and deemed vested by operation of law in the  
2 receiving trustees of schools, which shall hold legal title to,  
3 manage, and operate all common school lands and township  
4 loanable funds of the township, receive the rents, issues, and  
5 profits therefrom, and have and exercise with respect thereto  
6 the same powers and duties set forth under this Code to be  
7 exercised by trustees of schools; and (iii) whenever there is  
8 vested in the transferring trustees of schools, at the time  
9 that a transfer is effected under this Section, the legal title  
10 to any school buildings or school sites used or occupied for  
11 school purposes by an elementary school, subject to the  
12 jurisdiction and authority of those trustees of schools at the  
13 time that such transfer is effective, the legal title to those  
14 school buildings and school sites shall be transferred by  
15 operation of law to and invested in the receiving trustees of  
16 schools, the same to be held, sold, exchanged, leased, or  
17 otherwise transferred in accordance with applicable provisions  
18 of this Code.

19 (d) In the event that it is necessary to sell or otherwise  
20 dispose of any asset, investment, or security that is in the  
21 name of the school district and other districts not  
22 transferring from the jurisdiction of a township treasurer and  
23 trustees of schools, any fees or costs incurred in such  
24 disposition and any loss in value caused by the early sale or  
25 disposition shall be entirely borne by the school district  
26 transferring from the jurisdiction of a township treasurer and  
27 trustees of schools.

28 (e) As provided under Section 2-3.25g of this Code, a  
29 waiver of a mandate established under this Section may not be  
30 requested.

31 (f) This Section is repealed on January 1, 2010.

32 (105 ILCS 5/5-2.1) (from Ch. 122, par. 5-2.1)

33 Sec. 5-2.1. Eligible Voters: For the purposes of this

1 Article persons who are qualified to vote in school elections  
2 shall be eligible to vote for the trustees of schools who have  
3 jurisdiction over the elementary school district or unit school  
4 district in which the person resides.

5 ~~If However, if~~ the application of this Section results in  
6 an elector voting for trustees of a school township in which he  
7 does not reside because the elementary or unit school district  
8 crosses township boundaries and has been assigned to the  
9 jurisdiction of the trustees of an adjoining township, that  
10 elector shall also be eligible to vote for the trustees of the  
11 township within which he resides. Moreover, an elector who  
12 resides in a high school district that crosses township  
13 boundaries and has been assigned to the jurisdiction of the  
14 trustees of an adjoining township shall be eligible to vote for  
15 both the trustees of the township in which he or she resides  
16 and the trustees of the township having jurisdiction over the  
17 high school district in which he or she resides.

18 (Source: P.A. 85-1435.)

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